

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
COMMITTEE REPORT
1350 Pennsylvania Avenue, N.W., Washington, DC 20004

To: Members of the Council of the District of Columbia

From: Councilmember Charles Allen *CA*
Chairperson, Committee on the Judiciary and Public Safety

Date: November 28, 2018

Subject: Report on Bill 22-0255, the "Omnibus Public Safety and Justice Amendment Act of 2018"

The Committee on the Judiciary and Public Safety, to which Bill 22-0255, the "Omnibus Public Safety and Justice Amendment Act of 2018",¹ was referred, reports favorably thereon and recommends approval by the Council of the District of Columbia.

CONTENTS

Statement of Purpose and Effect _____	Page 2
Legislative History _____	Page 10
Position of the Executive _____	Page 10
Advisory Neighborhood Commission Comments _____	Page 11
Witness List and Hearing Record _____	Page 11
Impact on Existing Law _____	Page 13
Fiscal Impact _____	Page 15
Section-by-Section Analysis _____	Page 15
Committee Action _____	Page 17
List of Attachments _____	Page 17

¹ The short title of the bill as introduced was the "Child Neglect and Sex Trafficking Amendment Act of 2017".

STATEMENT OF PURPOSE AND EFFECT

I. Purpose and Effect

Bill 22-0255, the “Omnibus Public Safety and Justice Amendment Act of 2018”, was introduced by Chairman Phil Mendelson at the request of Mayor Muriel Bowser on April 24, 2017, as the “Child Neglect and Sex Trafficking Amendment Act of 2017”. The bill was referred to the Committee on the Judiciary and Public Safety on May 2, 2017, and the Committee held a public hearing on the bill on June 22, 2017.

The Committee Print has been converted into an omnibus bill with a number of minor, technical, and conforming changes from other bills pending in Committee, bills moved on an emergency and temporary basis by the Council, and necessary clarifications that have come to the Committee’s attention in Council Period 22.

II. Committee Reasoning

The following is a summary of the sections in the Committee Print in the order in which they appear:

a. Section 2: Attorney General’s Grantmaking Authority

Section 2 amends the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), to authorize the Office of the Attorney General (“OAG”) to issue grants, not to exceed the total amount of \$360,000, for the purposes of crime reduction and violence interruption. OAG would be permitted to use its Litigation Support Fund to pay any personnel and non-personnel costs related to administering the grants. This authority was initially provided by the Council in emergency² and temporary³ legislation in the spring of 2018 to accompany \$360,000 allocated by the Council in Fiscal Year 2018 for the grants. OAG has since utilized the Council’s funding to contract with the organization Cure Violence to open two community-based violence prevention and intervention sites in the District, staffed by District violence interruption staff.

b. Section 3: Council Review of Mayoral Nominations to Certain Agencies under the Committee’s Jurisdiction

Section 3 amends the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to make nominations to the Board of Ethics and Government Accountability, the Corrections Information Council, and District of Columbia Sentencing Commission subject to a 90-day period of Council review, after which the nominations would be deemed disapproved. Conforming amendments to the organic acts of the Corrections Information Council and the District of Columbia Sentencing Commission are also found in Sections 5 and 15

² B22-0835, the “Attorney General Limited Grant-Making Authority Emergency Amendment Act of 2018”, <http://lims.dccouncil.us/Download/40349/B22-0835-Enrollment.pdf>.

³ B22-0836, the “Attorney General Limited Grant-Making Authority Temporary Amendment Act of 2018”, <http://lims.dccouncil.us/Download/40350/B22-0836-Enrollment.pdf>.

of the Committee Print, respectively. Currently, nominations to the Board of Ethics and Government Accountability are deemed disapproved after a 45-day period of Council review, unlike the other Mayoral nominations deemed disapproved. This period is too brief for the Committee to be able to adequately review the Mayor's nominees. Nominations to the Corrections Information Council and the Sentencing Commission are, oddly, neither deemed approved or disapproved, and they therefore sit in Committee until approved. The Committee Print corrects this oversight.

c. *Section 4: Requiring Preservation of Public Body Meeting Recordings and Minutes*

Section 4 amends the Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578(a)), to require the retention of recordings and minutes of meetings of a public body for a minimum of five years. This provision comes from B22-0743, the "Preservation of Electronic Recordings of Meetings Amendment Act of 2018", which was introduced by Councilmember Vincent Gray, along with Councilmembers Evans, Grosso, Robert White, and Chairman Mendelson, on March 6, 2018. The bill was introduced in response to the deletion of meeting records by the United Medical Center board after a six-month retention period.

B22-0743 was sequentially referred to the Committee on Health and this Committee, and the former held a hearing on the bill on June 22, 2018. The Committee Print's language is nearly identical to that of the Health Committee's Print – marked up on October 4, 2018 – and requires minimal retention for these important public body records. The language is supported by the Board of Ethics and Government Accountability's Office of Open Government.

d. *Section 6: Amendments to the District's Address Confidentiality Program*

The Address Confidentiality Act of 2018 – introduced by Committee Chairperson Allen and passed by the Council – took effect on July 3, 2018, and the law is no longer subject to appropriations as of October 1, 2018. The law establishes an Address Confidentiality Program, administered by the Office of Victim Services and Justice Grants, to allow a victim of domestic violence, a sexual offense, stalking, or human trafficking, or an individual who provides services at an organization that focuses on reproductive healthcare or serving the listed victims, to maintain the confidentiality of their actual address.

Section 6 makes several technical and minor amendments necessary to effectuate the Office of Tax and Revenue's compliance with the new law, including to require program participants to provide the Office of Tax and Revenue ("OTR") with their actual addresses and clarify how OTR should display program participants' actual addresses. The Committee worked extensively with OTR and the Recorder of Deeds to clarify that this language will strike the proper balance between the real estate industry's need to preserve public records and the critical importance that program participants can have their actual addresses shielded from public view.⁴ The Committee Print requires that participants use their actual address on any document filed with OTR. OTR, however, cannot index by a participant's name in its public-facing online database. Meaning, any individual using this database will not have access to a participant's documents if

⁴ See, Committee on Judiciary and Public Safety Committee Report for B22-0037.

they search for the documents by the participant's name. These protections are not extended to documents that are a court order, a judgment, a lien, or any document related to debt collection that is not a security interest instrument, as the program does not intend to insulate a participant from public view in the event she or he violates District law. For this same reason, OTR will be permitted to include the participant's name in any public notice or index published for the collection of debt, including taxes. In the interest of preserving public records, the Committee Print clarifies that OTR will not be required to redact documents to comply with the legislation.

This section also clarifies that a designee of the Director of the Office of Victim Services and Justice Grants may be selected as an agent for the purpose of service of process. Finally, the Committee Print clarifies the penalties provision of the law. The Committee understands that in the course of following real estate industry practices and standards, there are situations when certain public disclosures are required by law, which may include a participant's actual address. The Committee Print exempts these types of disclosures from penalty. Further, disclosure may also be required in the course of regular industry practice, but not by any governing laws. The Committee has determined that OVSJG shall issue rules to dictate when these types of disclosures are appropriate and should be exempted from penalty.

e. Sections 7 and 8: Amending the Definitions of "Child Abuse" and "Neglect" to Conform with Federal Law

Section 7 includes the amended version of the introduced B22-0255. This section broadens the definitions of an "abused" child and a "neglected" child to include a victim of sex trafficking or severe forms of trafficking of persons, a commercial sex act, or sex trafficking of children – all defined terms in federal or District law. The purpose of B22-0255, as introduced, is to ensure that the District continues to be eligible for federal funding under the "Child Abuse Prevention and Treatment Act" ("CAPTA").⁵ CAPTA provides federal funding and guidance to states in support of child abuse prevention, assessment, investigation, prosecution, and treatment activities, and also provides grants to public agencies and nonprofit organizations.⁶ Additionally CAPTA identifies the federal role in supporting research, evaluation, technical assistance, and data collection; establishes the Office on Child Abuse and Neglect; and establishes a national clearinghouse of information relating to child abuse and neglect.⁷

CAPTA was most recently amended by the "Justice for Victims of Trafficking Act of 2015" ("JVTA").⁸ This legislation required that states amend their definitions of "child abuse and neglect" and "sexual abuse" by May 2017 to include child victims of "sex trafficking"⁹ or "severe forms of trafficking in persons"¹⁰ as defined by federal law. As a result, B22-0255 amends the

⁵ See, "Child Abuse Prevention and Treatment Act of 1974", Pub. L. 93-247, <https://www.acf.hhs.gov/sites/default/files/cb/capta2016.pdf>.

⁶ See, <https://www.childwelfare.gov/pubPDFs/about.pdf#page=1&view=Introduction>.

⁷ *Id.*

⁸ See, "Justice for Victims of Trafficking Act of 2015", Pub. L. 114-22, available at <https://www.congress.gov/114/plaws/publ22/PLAW-114publ22.pdf>.

⁹ See, 22 U.S.C.A. § 7102(10).

¹⁰ See, 22 U.S.C.A. § 7102(9)(A).

District's definitions of "abused" and "neglected child" to comport with this federal mandate. Similar emergency¹¹ and temporary¹² legislation is already in effect.

As introduced, the legislation amended the definition of "neglected child" in D.C. Official Code § 4-1301.02(15A) to include a child who is a victim of "sex trafficking" or "severe forms of trafficking in persons" under federal law. The legislation also amended the definition of "sexual abuse" in D.C. Official Code § 16-2301(32) to include subjecting a child to sex trafficking and severe forms of tracking in persons.

The Committee made minor changes to the legislation as introduced that reflect the concerns raised by CFSA and the Children's Law Center at the Committee's hearing on the bill. First, the Committee expanded the definition of a "neglected child" in D.C. Official Code § 4-1301.02 (15A) to include: (1) a victim of sex trafficking or severe forms of trafficking in persons, as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A)); (2) a victim of a commercial sex act, as that term is defined in section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)); and (3) a victim of sex trafficking of children, as described in section 104 of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834). The Committee also expanded the definition of "abused" in D.C. Official Code § 4-1301.02(1) to include references to those same victims. The Committee included these definitions because, while similar, the federal and local definitions of sex trafficking have different elements to define sex trafficking.

Lastly, the Committee included language to provide that nothing in the Committee Print should be construed to prohibit sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes of D.C. Official Code § 16-2301(32); or CFSA from offering or providing services to abused or neglected children, including where the child was not abused or neglected by a parent, guardian, or custodian. It is the Committee's intent that this last clause not be intended to mandate that CFSA be compelled to provide services themselves or through service providers, should they choose to do so.

The Committee's amendment in Section 8 conforms to the above amendments in Section 7.

f. *Section 9: Amendments to the District's Poverty Lawyer Loan Repayment Assistance Program ("LRAP")*

Section 9 amends the Access to Justice Initiative Establishment Act of 2010, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 4-1701.01 *et seq.*), to make minor changes to LRAP applicants' and participants' eligibility. First, current law places an income limit

¹¹ B22-0693, the "Child Neglect and Sex Trafficking Emergency Amendment Act of 2018", <http://lims.dccouncil.us/Download/39689/B22-0693-Enrollment.pdf>.

¹² B22-0694, the "Child Neglect and Sex Trafficking Temporary Amendment Act of 2018", <http://lims.dccouncil.us/Download/39690/B22-0694-Enrollment.pdf>.

for LRAP participants based on the Internal Revenue Service's definition of adjusted gross income. This figure is difficult for the individual LRAP participant to calculate and for the D.C. Bar Foundation – the LRAP Administrator – to monitor, because the participant does not file their tax return until after the LRAP period is over and the LRAP award is forgiven. "Current salary" provides greater clarity and efficiency for the participant and the Bar Foundation. Salary can also be easily verified through the participant's employer, similar to salary verification conducted by a mortgage company or a bank for a car loan.

Second, current law caps the income of LRAP participants at \$75,000, subject to a 3% annual increase beginning on October 1, 2013. The Committee believes that a fixed cap of \$90,000 is more in keeping with the appropriate salary for "poverty lawyers" in the District. Such a cap could be revisited legislatively if necessary.

Third, the Committee Print amends the current preference factors applied by the Bar Foundation if the needs of all participants exceed the financing available in a given year. This amendment conforms to the income definition change described above.

Fourth, current law allows LRAP participants who "provide adequate notice" to the Bar Foundation of their voluntary withdrawal from eligible employment to be forgiven for disbursed loans through the date of their withdrawal if other conditions are satisfied. To increase the efficiency of the LRAP and allow more funds to be available for LRAP awards instead of administration, the proposed change would expand pro-rated forgiveness to those who become "ineligible" after completing three full years in the LRAP – "ineligibility" could include other forms of withdrawal, for example, or a salary increase that might place the participant over the income cap.

g. Section 10: Technical Changes to the District's Presumptive Disability Program for Fire and Emergency Medical Services Department Personnel

Section 10 includes the substantive provisions of B22-0988, the "Fire and Emergency Medical Services Employee Presumptive Disability Civilian EMS Employees Technical Amendment Act of 2018". B22-0988 was introduced by Chairman Mendelson at the request of the Mayor on October 1, 2018, and was referred to the Committee the next day. The Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012 (the "Presumptive Act") amended the Police Medical Leave and Limited Duty Amendment Act of 2004 to create a presumption that certain diseases or conditions are associated with occupational duties of Fire and Emergency Medical Services Department ("FEMS") personnel. Accordingly, personnel diagnosed with such diseases or conditions are entitled to the same rights and benefits that accompany a performance-of-duty injury or occupational disease.

The Presumptive Act applies equally to sworn FEMS personnel and to emergency medical services ("EMS") employees. When it was originally enacted, the Presumptive Act erroneously referred in multiple places to the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code 32-1501 *et seq.*), as the source of coverage for an occupational disease suffered in the line of duty for EMS employees. The District of Columbia Workers' Compensation Act of 1979 established a requirement imposed upon private

sector employers to provide benefits for an injury or death resulting from a workplace injury. Employees of the District of Columbia government, including EMS employees, are provided similar benefits through the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code 1-601.01 *et seq.*), as amended.

The Committee Print amends the Presumptive Act to correct the erroneous reference to the private-sector workers' compensation statute. This technical amendment will ensure that an EMS employee who suffers a covered disease or condition will receive the benefits to which he or she is entitled without any question as to the authority under which that benefit is provided.

h. Section 11: Making Permanent Existing Medical Marijuana Cultivation Center Relocation Authority

Section 11 includes a provision previously passed by the Council in emergency¹³ and temporary¹⁴ legislation and also included by the Committee on Health in its Committee Print of B22-0446, the "Medical Marijuana Improvement Amendment Act of 2017". The Committee Print amends the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(3)), to allow a medical marijuana cultivation center with a pending license application to modify the location listed in the pending application without forfeiting the "active" status of the application. The amended Legalization of Marijuana for Medical Treatment Initiative of 1999 contains a cap on the number of medical marijuana cultivation centers that may operate in a single ward. In the event that all available licenses in a ward are issued during the pendency of an application for a license in that ward, the Committee Print would allow the applicant to modify the location on the application to a different ward without having to resubmit the application in its entirety.

i. Section 12: Technical Changes to the Service of Process by Publication

In the Comprehensive Youth Justice Amendment Act of 2018, this Committee allowed for service of process by publication upon a defendant who cannot be found after diligent efforts or who by concealment seeks to avoid service of process.¹⁵ The Committee mistakenly neglected to make a conforming change to D.C. Official Code § 13-338, which sets forth the prerequisites for orders of publication. Section 13 makes this change.

j. Section 13: Technical Changes to the Domestic Violence Fatality Review Board

Section 13 amends section 16-1053 of the District of Columbia Official Code to make technical changes to the organic act for the Domestic Violence Fatality Review Board.

¹³ B22-0282, the "Medical Marijuana Cultivation Center Relocation Emergency Amendment Act of 2017", <http://lims.dccouncil.us/Download/38093/B22-0282-Enrollment.pdf>.

¹⁴ B22-0283, the "Medical Marijuana Cultivation Center Relocation Temporary Amendment Act 2017", <http://lims.dccouncil.us/Download/38094/B22-0283-Enrollment.pdf>.

¹⁵ D.C. Official Code § 13-336. See, <http://lims.dccouncil.us/Download/35539/B21-0683-Enrollment.pdf>.

k. *Section 14: Technical Changes to Orders in Force for Persons in Need of Supervision*

Section 14 amends section 16-2322 of the District of Columbia Code to clarify that existing Family Court orders currently in force with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is 18 years of age or older and, for any other child, when that child reaches 18 years of age. The Comprehensive Youth Justice Amendment Act of 2016, passed by this Committee, was not explicit that its termination of Family Court orders for persons in need of supervision applied to *current* and prospective orders, although that was the Council's intent.

l. *Section 16: Good Time Credits and Clarifications to the Comprehensive Youth Justice Amendment Act of 2016*

Section 16 contains several amendments to An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403 *et seq.*). First, the Committee Print amends D.C. Code § 24-403.01 to allow individuals to earn good time credits for any offense, in accordance with federal law. Because of a relatively new re-interpretation of the law by the Bureau of Prisons, individuals sentenced to mandatory minimum terms for D.C. Code offenses can no longer earn good time credit on those terms. Individuals sentenced in federal court *can* earn good time credit on mandatory minimum terms. The Committee Print therefore provides that good time credits can be earned for *any* D.C. Code offense. The purpose behind good time credits is to acknowledge strides made by inmates toward rehabilitation and successful reentry, and this amendment corrects any misinterpretation by the Bureau of Prisons that would confound that purpose.

Second, the Committee Print amends a relatively new provision in Section 301 of the Comprehensive Youth Justice Amendment Act of 2016 – the Incarceration Reduction Amendment Act of 2016 – to account for lessons learned since its effective date. This act allows for sentence reviews for individuals who have served a certain number of years in prison for crimes committed as juveniles. The sentence reviews conducted by the Superior Court thus far have provided several opportunities for clarification and enhancement, but as of the date of this report, the Committee is quite pleased with Superior Court judges' interpretations of the new law. This section important now includes a wider number of individuals within the law's sentence review petition process, revisits the factors used by the court, and lowers the number of years an individual must have served prior to applying.

m. *Section 17: Clarifying the Definition of ATVs*

Section 17 includes the substantive provisions of B22-0829, the "All-Terrain Vehicle Clarification Amendment Act of 2018", which was introduced by Chairman Mendelson, at the request of the Mayor, on May 31, 2018.¹⁶ B22-0829 was referred to the Committee on the June 5, 2018, and the Committee held a public hearing on the bill on October 4, 2018.

¹⁶ On May 31, 2018, B22-0829 was introduced, along with an emergency version of the bill, an accompanying emergency declaration resolution, and a temporary version of the bill: B22-0827, the "All-Terrain Vehicle

D.C. Code § 50–2201.04b(a)(1) prohibits the operation, parking, standing, or stopping of all-terrain vehicles (“ATVs”) or dirt bikes “on public property, including any public space in the District.”¹⁷ An ATV is defined as:

[A]ny motor vehicle with not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed primarily for off-road use and which has a seat or saddle designed to be straddled by the operator. The terms “all-terrain vehicle” and “ATV” shall not include golf carts, riding lawnmowers, or tractors.¹⁸

In prosecutions for the violation § 50–2201.04b(a)(1) with respect to all-terrain vehicles, the District must prove that the vehicle in question was, in fact, an “all-terrain vehicle” as that term is defined in the D.C. Code.¹⁹ Therefore, to prevail at trial, prosecutors have to prove both that the vehicle in question had between 3 and 6 tires and that those tires were “low-pressure.” Conversely, if the District could not establish that the vehicle in question had three to six low-pressure tires, that prosecution would be unsuccessful.

Of course, in cases where law enforcement officials gain possession of the vehicle in question, proving tire pressure can be relatively straightforward; investigators can test tire pressure, document their findings, and present them to the judge or jury. Compared to other motor vehicles, however, the recovery of ATVs presents a unique challenge: ATVs are designed for off-road operation and can, in response to an attempted traffic stop, drive into areas where officers are unlikely or unable to pursue them, such as public parks. In these cases, prosecutors must instead rely on photographic and video evidence. Proving that a vehicle had low-pressure tires from photographs and videos is difficult. In fact, earlier this year, the District lost a trial because it was unable to prove that a vehicle’s tires were low-pressure at trial – even with the assistance of an expert witness.

In addition to referencing tire pressure, another concern regarding the definition of ATVs was its reference to the number of tires on the vehicle. To qualify as an ATV, the vehicle must have “not less than 3 . . . but not more than 6 low-pressure tires.” A concern raised by Assistant Chief Robert Contee at the public hearing on B22-0829 was that ATV owners could add a seventh

Clarification Emergency Amendment Act of 2018”; PR22-0876, the “All-Terrain Vehicle Clarification Emergency Declaration Resolution of 2018”; and B22-0828, the “All-Terrain Vehicle Clarification Temporary Amendment Act of 2018”. PR22-0876 declared that “Proving that an all-terrain vehicle’s tires were ‘low-pressure’ can, in practice, be difficult. In prosecutions where the District was unable to recover the ATV itself, the District may instead rely on photographic or video evidence. Photographs and videos are, however, insufficient for determining tire pressure. . . . This emergency legislation will clarify the definition [of all-terrain vehicles] by providing that a vehicle’s tires do not need to be low-pressure to qualify as an all-terrain vehicle.” Both the emergency and temporary measures amended the definition of all-terrain vehicles in a manner identical to what is accomplished in the Committee Print for B22-0255, the “Omnibus Public Safety and Justice Amendment Act of 2018.”

¹⁷ D.C. Official Code § 50–2201.04b(a)(1).

¹⁸ D.C. Official Code § 50–2201.02(2).

¹⁹ Since D.C. Official Code § 50–2201.04b(a)(1) specifically limits its application to all-terrain vehicles and dirt bikes, only the operation of those two classes of vehicles can be prosecuted under the statute. The fact that the vehicle in question was an all-terrain vehicle or a dirt bike, therefore, becomes an element of the crime to be proved at trial beyond a reasonable doubt. If the prosecution could not establish to the jury’s satisfaction that the vehicle qualified as an all-terrain vehicle or a dirt bike, the jury would be required to acquit the defendant in that case.

or eighth superfluous tire, such that their vehicle – which would otherwise qualify as an ATV – is no longer captured by the definition found in D.C. Code § 50–2201.02(2).

The harm at issue with respect to ATVs is their reckless operation, compounded by their ability to elude law enforcement officials conducting traffic enforcement. Neither the vehicle’s tire pressure, not the specific number of tires, bears directly on these harms. Yet, the current definition’s reference to both the number of tires and their pressure creates a significant barrier to enforcing the prohibition on operating ATVs in public space. Those barriers, in turn, frustrate the District’s ability to improve traffic safety and protect the lives of District residents. By removing reference to the vehicle’s tire pressure and maximum number of tires, the Committee Print eliminates these barriers to enforcement and facilitates the successful prosecution of this offense. Notably, under the Committee Print, the criminal penalties for violating D.C. Code § 50–2201.04b(a)(1) remain unchanged.²⁰

LEGISLATIVE HISTORY

April 24, 2017	B22-0255 is introduced by Chairman Mendelson at the request of the Mayor.
May 2, 2017	B22-0255 is referred to the Committee on the Judiciary and Public Safety with comments from the Committee on Human Services.
May 5, 2017	Notice of Intent to Act on B22-0255 is published in the <i>District of Columbia Register</i> .
May 12, 2017	Notice of Public Hearing on B22-0255 is published in the <i>District of Columbia Register</i> .
June 22, 2017	Public Hearing on B22-0255 is held by the Committee on the Judiciary and Public Safety.
November 28, 2018	Consideration and vote on B22-0255 by the Committee on the Judiciary and Public Safety.

POSITION OF THE EXECUTIVE

The Committee received testimony at its June 22, 2017, public hearing on B22-0255 from Cory Chandler, General Counsel to the Child and Family Services Agency (“CFSA”):

Cory Chandler – General Counsel, Child and Family Services Agency

Ms. Chandler testified that prior to the passage of emergency legislation by the Council, the statutory framework limited CFSA’s authority to investigate child sex trafficking cases involving a parent, guardian, or custodian. Cases involving non-caregivers were referred to the

²⁰ Operating an all-terrain vehicle or dirt bike on public property is punishable by a fine, 30 days’ imprisonment, or both. See D.C. Official Code § 50–2201.04b(c).

Metropolitan Police Department (“MPD”). CFSA’s involvement was limited to making an initial assessment regarding child safety and well-being and working with MPD to make referrals to appropriate community providers. Ms. Chandler noted that CFSA has already complied with many of the requirements in JVTa and published guidance for staff on identifying, responding to, and supporting sex trafficking victims. She stated that permanent legislation is necessary for CFSA to remain in compliance with the CAPTA mandate that child welfare agencies respond to all sex trafficking cases, regardless of whether the bad actor is a caregiver. The proposed bill would permanently eliminate barriers that prevent CFSA from responding to sex trafficking reports involving non-caregivers and bring the District into compliance with federal law by amending the definitions of “neglected child” and “sexual abuse” found in the D.C. Code to include sex trafficking victims. Ms. Chandler stated these legislative changes will allow CFSA to provide child victims with appropriate services and treatment.

As a result of the passage of the emergency legislation, CFSA’s practice has expanded. Now, any hotline call reporting allegations of sex trafficking of a minor results in a joint investigation with MPD. Ms. Chandler noted that the emergency and temporary versions of B22-0255 require mandatory reporting when child sex trafficking is suspected, and CFSA agrees that mandatory reporting is critical. She noted that CFSA, in conjunction with the Committee on Human Services and the Council’s Office of General Counsel, decided that D.C. Official Code Title 16 should not be amended. She stated that the permanent bill should reflect this joint analysis and remove the references to Title 16. Finally, Ms. Chandler emphasized that changes to Title 4 sufficiently place the District in compliance with the CAPTA mandate and should be incorporated into the permanent legislation.

COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive comments from Advisory Neighborhood Commissions.

WITNESS LIST AND HEARING RECORD

On June 22, 2017, the Committee held a public hearing on B22-0255, then known as the “Child Neglect and Sex Trafficking Amendment Act of 2017”. A video recording of the public hearing can be viewed at http://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=4027.

The following permanent bills were also incorporated into the Committee Print of B22-0255, and hearing video or records on those bills are available here:

- The Committee on Health’s July 11, 2018, Public Hearing on B22-0743, the “Preservation of Electronic Recordings of Meetings Amendment Act of 2018”: http://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=4624
- The Committee on Health’s November 9, 2017, Public Hearing on B22-0446, the “Medical Marijuana Improvement Amendment Act of 2017”, which contains the Committee Print’s medical marijuana-related amendment: <http://lims.dccouncil.us/Download/38761/B22-0446-CommitteeReport1.pdf>
- This Committee’s October 4, 2018, Public Hearing on B22-0829, the “All-Terrain Vehicle Clarification Amendment Act of 2018”:

http://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=4669.

The following witnesses testified at the Committee's hearing on B22-0255 or submitted written statements outside of the hearing:

Public Witnesses

Aubrey Edwards-Luce – Policy Attorney, Children's Law Center

Ms. Edwards-Luce testified that Children's Law Center ("CLC") opposes the amendments in the introduced bill to the definitions of "abused" and "sexually abused" contained in D.C. Code § 16-2301, because the amendments would have unintended negative consequences. As introduced, the bill would have amended Title 16's definitions of abuse to include children who have been commercially sexually exploited by someone other than a parent, guardian, or custodian, which Ms. Edwards-Luce opposed, as it would allow CFSA to bring abuse and neglect court cases against a *parent* on behalf of those children, even if the parent were seeking to prevent the trafficking. Ms. Edwards-Luce further noted that youth may not disclose that they are being trafficked by a non-caregiver if their caregivers could be unfairly brought into the court system. Ms. Edwards-Luce also expressed concern that amending Title 16 could bring non-caregivers into child abuse and neglect cases.

She recommended that the Council solely amend D.C. Official Code § 4-1301.02 and establish that all child victims of commercial and sexual exploitation are eligible for assistance from CFSA. She noted that this is extremely important because she characterized CFSA's current policy as refraining from offering investigative or specialized diagnostic services to youth who are trafficked by non-caregivers. Finally, Ms. Edwards-Luce recommended that the legislation incorporate the language from the federal definitions, instead of citing them. She expressed concern that citing to the federal law could place the determination of service eligibility upon the federal definition, which Congress could amend in a manner contrary to the best interests of the District's child victims. Lastly, she recommended that the Council insert relevant District definitions because some are broader than their federal counterparts, and these differences could cause confusion.

Yasmin Vafa and Maheen Kaleem, Representatives, Rights4Girls

Ms. Vafa and Ms. Kaleem testified in support of B22-0255. They stated that the bill would bring the District into compliance with federal law and ensure that victims of child sex trafficking are effectively identified and supported across agencies. They described the landscape of federal laws relating to child sex trafficking, arguing that recent legislation was intended to benefit all sex-trafficked youth, and not only those in the child welfare system. They also underscored Congress' intention for victims of child sex trafficking to be contemplated as victims of child abuse, even when the trafficking did not occur at the hands of a parent or caretaker.

Whitman-Walker Health

Whitman-Walker Health testified in support of B22-0255. The organization advocated in support of CFSA responding to child sex trafficking victims of child abuse and neglect, whether or not the perpetrator or individual involved in the trafficking is a parent or guardian or another adult in a position of authority. Whitman-Walker advocated for CFSA involvement in lieu of MPD.

Government Witnesses

Erin Cullen – Deputy Attorney General, Family Services Division, Office of the Attorney General

Ms. Cullen testified that the Office of the Attorney General (“OAG”) supports the enactment of the legislation. Ms. Cullen noted that JVTa is an important piece of legislation that will continue to expand the government’s attention and focus on the growing issue of the sexual exploitation of youth, which leads to increased episodes of trafficking. By implementing JVTa, we increase our ability to keep children safe. Ms. Cullen noted that Attorney General Racine is committed to increasing awareness in schools and the larger community about the signs of trafficking. She stated that, with the support of public schools, OAG unveiled a poster that was developed in collaboration with FAIR Girls. Finally, Ms. Cullen testified that passing JVTa would expand the work and support a multi-agency approach to ensure that incidents of trafficking are investigated, and children are provided the services they need.

Katya Semyonova – Special Counsel to the Director for Policy, Public Defender Service for the District of Columbia

Ms. Semyonova testified that the Public Defender Service (“PDS”) does not take a position on B22-0255. PDS offered one minor language change.

IMPACT ON EXISTING LAW

B22-0255 would amend:

- The Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), to authorize the Attorney General to issue grants, not to exceed the total amount of \$360,000, for the purposes of crime reduction and violence interruption and to use the Litigation Support Fund to pay any personnel and non-personnel costs related to administering such a grant;
- The Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to make nominations to the Board of Ethics and Government Accountability, Corrections Information Council, and District of Columbia Sentencing Commission subject to a 90-day period of Council review, after which the nominations would be deemed disapproved;

- The Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578(a)), to require the retention of recordings and minutes of meetings of a public body for a minimum of 5 years;
- The Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-102), to make conforming changes;
- The Address Confidentiality Act of 2018, effective July 3, 2018 (D.C. Law 22-118; D.C. Official Code § 4-555.01 *et seq.*), to clarify that a designee of the Director of the Office of Victim Services and Justice Grants may be selected as an agent for the purpose of service of process, require program participants to provide the Office of Tax and Revenue with their actual addresses, and clarify how the Office of Tax and Revenue should display program participants' actual addresses;
- The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), to broaden the definitions of an abused child and a neglected child to include a victim of sex trafficking or severe forms of trafficking of persons, a commercial sex act, or sex trafficking of children;
- An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a)), to make a conforming amendment;
- The Access to Justice Initiative Establishment Act of 2010, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 4-1701.01 *et seq.*), to make minor changes to loan repayment assistance program applicants' and participants' eligibility;
- The Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code § 5-651 *et seq.*), to make a technical change;
- The Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(3)), to provide certain medical marijuana cultivation center applicants with the ability to relocate to another election ward;
- Section 13-338 of the District of Columbia Official Code to make a conforming change;
- Section 16-1053 of the District of Columbia Official Code to make technical changes;
- Section 16-2322 of the District of Columbia Code to clarify that existing Family Court orders currently in force with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is 18 years of age or older and, for any other child, when that child reaches 18 years of age;
- The National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01), to make conforming and technical changes;
- An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403 *et seq.*), to allow individuals to earn good time credits for any offense in accordance with federal law, and clarify provisions allowing for sentence review for individuals who have served a certain number of years in prison for crimes committed as juveniles; and
- The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)), to clarify the definition of all-terrain vehicle or ATV.

FISCAL IMPACT

The Committee adopts the fiscal impact statement of the District's Chief Financial Officer.

SECTION-BY-SECTION ANALYSIS

- Section 1** Provides the long and short titles of the legislation.
- Section 2** Amends the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-301.81 *et seq.*), to authorize the Attorney General to issue grants, not to exceed the total amount of \$360,000, for the purposes of crime reduction and violence interruption and to use the Litigation Support Fund to pay any personnel and non-personnel costs related to administering such a grant.
- Section 3** Amends the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01), to make nominations to the Board of Ethics and Government Accountability, Corrections Information Council, and District of Columbia Sentencing Commission subject to a 90-day period of Council review, after which the nominations would be deemed disapproved.
- Section 4** Amends the Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578(a)), to require the retention of recordings and minutes of meetings of a public body for a minimum of 5 years.
- Section 5** Amends the Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-102), to make conforming changes.
- Section 6** Amends the Address Confidentiality Act of 2018, effective July 3, 2018 (D.C. Law 22-118; D.C. Official Code § 4-555.01 *et seq.*), to clarify that a designee of the Director of the Office of Victim Services and Justice Grants may be selected as an agent for the purpose of service of process, require program participants to provide the Office of Tax and Revenue with their actual addresses, and clarify how the Office of Tax and Revenue should display program participants' actual addresses.
- Section 7** Amends the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), to broaden the definitions of an abused child and a neglected child to include a victim of sex trafficking or severe forms of trafficking of persons, a commercial sex act, or sex trafficking of children.

- Section 8 Amends An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a)), to make a conforming amendment.
- Section 9 Amends the Access to Justice Initiative Establishment Act of 2010, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 4-1701.01 *et seq.*), to make minor changes to loan repayment assistance program applicants' and participants' eligibility.
- Section 10 Amends the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code § 5-651 *et seq.*), to make a technical change.
- Section 11 Amends the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(3)), to provide certain medical marijuana cultivation center applicants with the ability to relocate to another election ward.
- Section 12 Amends section 13-338 of the District of Columbia Official Code to make a conforming change.
- Section 13 Amends section 16-1053 of the District of Columbia Official Code to make technical changes.
- Section 14 Amends section 16-2322 of the District of Columbia Code to clarify that existing Family Court orders currently in force with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is 18 years of age or older and, for any other child, when that child reaches 18 years of age.
- Section 15 Amends the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01), to make conforming and technical changes.
- Section 16 Amends An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47 Stat. 697; D.C. Official Code § 24-403 *et seq.*), to allow individuals to earn good time credits for any offense in accordance with federal law, and clarify provisions allowing for sentence review for individuals who have served a certain number of years in prison for crimes committed as juveniles.

Section 17 Amends the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)), to clarify the definition of all-terrain vehicle or ATV.

Section 18 Provides the fiscal impact statement.

Section 19 Provides the effective date.

COMMITTEE ACTION

On November 28, 2018, the Committee on the Judiciary and Public Safety held a markup to consider B22-0255, the "Omnibus Public Safety and Justice Amendment Act of 2018". The meeting was called to order at 4:15 p.m. Chairperson Charles Allen recognized a quorum consisting of himself and Councilmembers Vincent Gray and David Grosso. Councilmember Gray described his intentions in introducing the permanent version of one portion of the bill, which incorporated the permanent version of B22-0743, the "Preservation of Electronic Recordings of Meetings Amendment Act of 2018" (described in detail in the body of this report). Chairperson Allen, without objection, then moved the Committee Report and Print for B22-0255 en bloc with leave for staff to make technical and conforming changes. The Committee then voted 3-0 to approve the Committee Report and Print with the Members voting as follows:

YES: Chairperson Allen and Councilmembers Gray and Grosso

NO: None

PRESENT: None

ABSENT: Councilmembers Anita Bonds and Mary M. Cheh


LIST OF ATTACHMENTS

- (A) B22-0255, as introduced
- (B) Notice of Public Hearing, as published in the *District of Columbia Register*
- (C) Agenda and Witness List
- (D) Witness Testimony
- (E) Fiscal Impact Statement
- (F) Legal Sufficiency Determination
- (G) Comparative Print of B22-0255
- (H) Committee Print of B22-0255

ATTACHMENT A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council
Date : April 27, 2017
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, April 24, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Child Neglect and Sex Trafficking Amendment Act of 2017", B22-0255

INTRODUCED BY: Chairman Mendelson at the request of the Mayor

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety with comments from the Committee on Human Services.

Attachment

cc: General Counsel
Budget Director
Legislative Services



MURIEL BOWSER
MAYOR

APR 24 2017

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave. NW
Washington, D.C. 20004

Dear Chairman Mendelson:

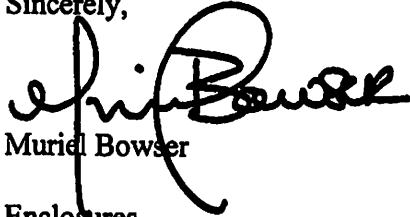
Enclosed for consideration by the Council of the District of Columbia is the "Child Neglect and Sex Trafficking Amendment Act of 2017", the "Child Neglect and Sex Trafficking Emergency Amendment Act of 2017" and its corresponding declaration, and the "Child Neglect and Sex Trafficking Temporary Amendment Act of 2017". This legislation, if enacted, will broaden the support we are able to provide children and youth who are victims of sex trafficking in the District and continue the District's eligibility for federal funds for child welfare programs.

The Justice for Victims of Trafficking Act (P.L. 114-22; approved May 29, 2015) amends certain provisions of the Child Abuse Prevention and Treatment Act ("CAPTA") grant program. CAPTA is an important source of federal funding for the District's child welfare programs. The District must comply with the new CAPTA sex trafficking requirements by May 29, 2017 to continue being eligible for these funds. Fortunately, the Child and Family Services Agency (CFSA) is able to implement many of these provisions, with respect to sex trafficking, through policy. However, local legislation is necessary to bring the District into compliance with the requirement that child welfare agencies consider a child identified as a sex trafficking victim to also be a victim of neglect and sexual abuse regardless of whether the perpetrator is a parent, guardian or custodian.

Through this legislation, the District will not only comply with the federal requirements but also improve outcomes for all District children by offering services to any District child who is a victim of sex trafficking.

As always, CFSA acting director Brenda Donald is available to discuss any questions you may have regarding this legislation. I look forward to your prompt and favorable consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser". The signature is stylized with a large, looping "M" and a cursive "B".

Muriel Bowser

Enclosures



Chairman Phil Mendelson
At the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Prevention of Child Abuse and Neglect Act of 1977 to broaden the definition of a neglected child to include a victim of sex trafficking or severe forms of sex trafficking; and to amend section 16-2301 of the District of Columbia Official Code to include sex trafficking or severe forms of sex trafficking as a form of sexual abuse.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child Neglect and Sex Trafficking Amendment Act of 2017."

Sec. 2. Section 102(15A) of The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02(15A)), is amended to read as follows:

"Neglected child" means a child who is a

"(A) Neglected child as defined in § 16-2301(9)"; or

"(B) Victim of sex trafficking or severe forms of trafficking in persons as defined in paragraphs (10) and (9)(A) of section 103 of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat 164; § 22 U.S.C. 7102).".

Sec. 3 Section 16-2301(32) of the District of Columbia Official Code is amended as follows:

(1) Subparagraph (B) is amended by striking the phrase "sexually explicit conduct; or" and inserting the phrase "sexually explicit conduct;" in its place.

1 (2) Subparagraph (C) is amended by striking the phrase “sexually explicit conduct.”

2 and inserting “sexually explicit conduct; or” in its place.

3 (3) A new subparagraph (D) is added to read as follows:

4 “(D) subjecting a child to sex trafficking or a severe form of trafficking in persons as
5 defined in paragraphs (10) and (9)(A) of section 103 of the Trafficking Victims Protection Act of
6 2000, approved October 28, 2000 (114 Stat 164; § 22 U.S.C. 7102)”.”

7 Sec. 4. Fiscal impact statement.

8 The Council adopts the fiscal impact statement in the Committee report as the fiscal
9 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
10 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

11 Sec. 5. Effective date.

12 This act shall take effect following approval by the Mayor (or in the event of a veto by
13 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review
14 provided in section 602 (c) (1) of the District of Columbia Home Rule Act, approved December
15 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: March 5, 2017

SUBJECT: Legal Sufficiency Review of Emergency, Temporary, and Permanent Versions of the
"Child Neglect and Sex Trafficking Amendment Act of 2017" and the
Accompanying Emergency Declaration
(AE-17- 104)

This is to Certify that this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

A handwritten signature in cursive script, reading "Janet M. Robins". The signature is written in dark ink and is positioned above a horizontal line.

Janet M. Robins

ATTACHMENT B

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

**BILL 22-0222, THE "SEXUAL ASSAULT VICTIMS' RIGHTS
AMENDMENT ACT OF 2017"**

**BILL 22-0255, THE "CHILD NEGLECT AND SEX TRAFFICKING
AMENDMENT ACT OF 2017"**

**BILL 22-0266, THE "VICTIM SERVICES OMNIBUS
AMENDMENT ACT OF 2017"**

**Thursday, June 22, 2017, 10:30 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

On Thursday, June 22, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will hold a public hearing on Bill 22-0222, the "Sexual Assault Victims' Rights Amendment Act of 2017"; Bill 22-0255, the "Child Neglect and Sex Trafficking Amendment Act of 2017"; and Bill 22-0266, the "Victim Services Omnibus Amendment Act of 2017". The hearing will take place in Room 412 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 10:30 a.m.

The stated purpose of Bill 22-0222, the "Sexual Assault Victims' Rights Amendment Act of 2017", is to amend the Sexual Assault Victims' Rights Act of 2014 to expand the right to a sexual assault victim advocate to persons aged 12 years and older; to allow the Office of Victim Services and Justice Grants to certify sexual assault victim advocates; to expand the right of a victim to have a sexual assault victim advocate present during interviews with prosecutors; to clarify the right of a victim to have a sexual assault victim advocate present during interactions with law enforcement and prosecutors; to provide a victim with the right to receive information about their case from prosecutors; to clarify the process for handling and disposing of sexual assault forensic examination kits and physical evidence recovery kits; to clarify the information victims have the right to receive from the Metropolitan Police Department; to provide a right to confidentiality for communications between a victim and sexual assault victim advocate; to

clarify the mandatory reporting requirements for sexual assault victim advocates; to clarify the timelines for processing of sexual assault forensic examination kits by the Department of Forensic Sciences; to establish a review committee to receive and investigate complaints from sexual assault victims; to create an annual report by the Sexual Assault Response Team; to improve data sharing among Sexual Assault Response Team members; to clarify the rights of victims when being provided emergency care; to expand the definition of sexual contact to include the removal of a person's clothing without their consent; and to clarify the right of a victim to compensation under existing insurance policies.

The stated purpose of Bill 22-0255, the "Child Neglect and Sex Trafficking Amendment Act of 2017", is to amend the Prevention of Child Abuse and Neglect Act of 1977 to broaden the definition of a neglected child to include a victim of sex trafficking or severe forms of sex trafficking; and to amend section 16-2301 of the District of Columbia Official Code to include sex trafficking or severe forms of sex trafficking as a form of sexual abuse.

The stated purpose of Bill 22-0266, the "Victim Services Omnibus Amendment Act of 2017", is to amend Title 16 of the District of Columbia Official Code to establish an Address Confidentiality Program administered by the Office of Victim Services and Justice Grants, to establish a Justice Grants and a Violence Fatality Review Board, to establish a maximum amount for reimbursement for funeral and burial expenses for victims of violent crime, and to add a member to the Criminal Justice Coordinating Council.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee via email at judiciary@dccouncil.us or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Friday, June 16**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on July 14.**

ATTACHMENT C

**Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
AGENDA & WITNESS LIST
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

**COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY**

ANNOUNCES A PUBLIC HEARING ON

**BILL 22-0222, THE "SEXUAL ASSAULT VICTIMS' RIGHTS AMENDMENT ACT OF
2017"**

**BILL 22-0255, THE "CHILD NEGLECT AND SEX TRAFFICKING AMENDMENT ACT
OF 2017"**

BILL 22-0266, THE "VICTIM SERVICES OMNIBUS AMENDMENT ACT OF 2017"

**Thursday, June 22, 2017, 10:30 a.m.
Room 412, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004**

AGENDA

- I. CALL TO ORDER**
- II. OPENING REMARKS**
- III. WITNESS TESTIMONY**
 - i. Public Witnesses**
 - 1. Aubrey Edwards-Luce, Policy Attorney, Children's Law Center**
 - 2. Jessica Tunon, Public Witness**
 - 3. Elisabeth Olds, SAVRAA Independent Expert Consultant**
 - 4. Michelle Palmer, Executive Director, Wendt Center for Loss and Healing**
 - 5. Marta Beresin, Director of Legal Services and Public Policy, Break the Cycle**
 - 6. Jenica Wright, Member, D.C. Justice for Survivors Campaign**
 - 7. Marisa Ferri, Member, D.C. Justice for Survivors Campaign**

8. Sarah Theresa McGhee, Member, D.C. Justice for Survivors Campaign
9. Erin (*testimony read by Sarah Theresa McGhee*), Member, Sexual Assault Survivors and Supporters
10. Katrina Semich, Member, Sexual Assault Survivors and Supporters
11. Edurné Lopez (*testimony read by Katrina Semich*), Member, Sexual Assault Survivors and Supporters
12. Lacie Holway, Member, Sexual Assault Survivors and Supporters
13. Edwith, Member, Sexual Assault Survivors and Supporters
14. Irene L., Member, Sexual Assault Survivors and Supporters
15. Kayla H., Member, Sexual Assault Survivors and Supporters
16. Sandrine Symone, Member, Sexual Assault Survivors and Supporters
17. Nancy Miranda, Public Witness
18. Veronica Best, Public Witness
19. Chris Diamond, Public Witness
20. Aniqa Raihan, Public Witness
21. Karen Mulhauser, Public Witness
22. Cecilia Sequiera, Public Witness
23. Wanda Thompson, Public Witness
24. Vanessa Mason, Public Witness
25. Steven J. Kelly, Public Witness
26. Indira Henard, Executive Director, D.C. Rape Crisis Center
27. Rachel Friedman, Deputy Director, Men Can Stop Rape
28. Amanda Lindamood, Director of Training & Community Engagement, D.C. Rape Crisis Center
29. Dawn Dalton, Policy Director, D.C. Coalition Against Domestic Violence
30. Andrea Gleaves, Strategic Partnerships Manager, D.C. Coalition Against Domestic Violence
31. Claire Bernstein, Teen and Youth Adult Clinical Specialist, Jewish Coalition Against Domestic Abuse
32. Erin Larkin, Associate Director, Domestic Violence & Sexual Assault Program, Ayuda
33. Cortney Fisher, Public Witness
34. Nikki Charles, Co-Executive Director, Network for Victim Recovery of D.C.
35. Bridgette Stumpf, Co-Executive Director, Network for Victim Recovery of D.C.

36. Kristin Eliason, Co-Director of Legal Programs, Network for Victim Recovery of D.C.
37. Lindsey Silverberg, Director of Advocacy & Case Management, Network for Victim Recovery of D.C.
38. Erin Pollitt, Clinical Manager, District of Columbia Forensic Nurse Examiners
39. Tonya V. Kinlow, Vice President, Community Engagement, Advocacy and Community Affairs, Children's National Health System
40. Allison M. Jackson, Division Chief, Freddie Mac Foundation Child & Adolescent Protection Center, Children's National Health System
41. Lisa K. Tuchman, Chief, Division of Adolescent and Young Adult Medicine, Center for Translational Science, Children's Research Institute, Children's National Health System
42. Lenore Jarvis, Pediatric Emergency Medicine Attending, Children's National Health System/American Academy of Pediatrics
43. Siobhan Copeland, Victims Services Associate, Child Protection Center, Children's National Health System
44. Joyce N. Thomas, President/CEO, Center for Child Protection and Family Support
45. Yvette Butler, Staff Attorney, Amara Legal Center

ii. Government Witnesses

1. Michelle Garcia, Director, Office of Victim Services and Justice Grants
2. Cory Chandler, General Counsel, Child and Family Services Agency
3. Erin Cullen, Deputy Attorney General, Family Services Division, Office of the Attorney General
4. Katya Semyonova, Policy Counsel, Public Defender Service for the District of Columbia
5. Renata Cooper, Special Counsel for Policy & Legislative Affairs, United States Attorney's Office for the District of Columbia

IV. ADJOURNMENT

ATTACHMENT D



501 3rd Street, NW • 8th Floor
Washington, DC 20001
T 202.467.4900 • F 202.467.4949
childrenslawcenter.org

**Testimony Before the District of Columbia Council
Committee on the Judiciary & Public Safety
June 22, 2017**

**Public Hearing:
B22-255, the "Child Neglect and Sex Trafficking Amendment Act of 2017"**

**Aubrey Edwards-Luce
Policy Attorney
Children's Law Center**

INTRODUCTION

Good morning Chairman Allen and members of the Committee. My name is Aubrey Edwards-Luce. I am a policy attorney at Children's Law Center.¹ I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. As a legal service provider that serves children and youth in foster care, many of Children's Law Center's clients are at an increased risk of being a victim of commercial sexual exploitation (CSEC) and child sex trafficking.

I appreciate this opportunity to testify about the Child Neglect and Sex Trafficking Amendment Act of 2017 and the Sexual Assault Victims' Rights Amendment Act of 2017. My testimony today will focus on the Child Neglect and Sex Trafficking Amendment Act of 2017 ("the Act").

As introduced, Children's Law Center opposes the Act's amendments to definitions of "abused" and "sexually abused" contained in D.C. Code § 16-2301, because we believe changing the definitions in this section of the D.C. Code could have unintended negative consequences. We urge instead, the Council amend D.C. Code § 4-1301.02 and clearly establish that all child victims of commercial and sexual exploitation are eligible for assistance from the Child and Family Services Agency (CFSA). Lastly,

Children's Law Center recommends that the Act incorporate the language from federal definitions, instead of simply citing them. Citing to the federal definitions will subject the District's definitions' potential to future federal changes. Whereas, incorporating the language from those federal definitions will ensure that District lawmakers can craft a definition that best supports DC child victims of sex trafficking. As I will detail in my testimony, these proposed changes require victims be helped, put the District in compliance with the federal law and ensure that exploited youth and their caregivers are not deterred from seeking out the assistance of CFSA.

CHILD SEX TRAFFICKING IN DC

CSEC is a form of child abuse and neglect that harms too many children across the country and in the District. Child sex trafficking doesn't always look like a child being abducted from his or her community. The majority of trafficked youth that we come in contact with have typically experienced a time of grooming by adults who show them special attention and provide for their material needs. After the adult gains the youth's trust and makes the youth dependent on them, the adult begins exploiting the youth and using shame, guilt, or fear to keep the youth mentally, financially, emotionally, and physically entrapped. These grooming and exploitive interactions can occur on the internet, during a youth's commute to school, or when the youth has run away from home.

Unfortunately, many CSEC-involved youth do not self-identify as trafficking victims. These vulnerable teenagers—many of whom report experiencing foster care, homelessness, sexual abuse and domestic violence, involvement in the juvenile justice system, drug abuse, mental illness, and gang participation²—do not always have the ability to recognize how they are being exploited. Regardless of their readiness to identify as such, federal law is clear that any minor under the age of 18 induced into commercial sex is a victim of sex trafficking—regardless of whether or not the trafficker used force, fraud, or coercion.³

It is very difficult to ascertain exactly how many youth are ensnared in this dangerous network. The numbers we have are from the National Human Trafficking Resource Center hotline and the Metropolitan Police Department (MPD). The number of reported human trafficking cases involving DC minors was 23 cases in 2015 and 35 cases in 2016.⁴ During FY2016 the MPD referred a total of 43 CSEC cases (36 Black teenage girls and seven Hispanic teenage girls) to CFSA.⁵ However, every indication is that these reported numbers are a small fraction of the real number of victims.

While we do not have definitive data about the number of CSEC victims in DC, we do know that homeless youth are also at risk of being commercially and sexually exploited because lack of housing, shelter, and basic necessities is a top predictor for CSEC involvement. One expert who works with homeless youth in New York City stated that 70 to 80 percent of the youth they work with trade sex for money, food,

shelter, or drugs.⁶ In DC, there were 391 homeless youth under the age of 21 in FY2015.⁷ We also know that youth in foster care are at risk of becoming CSEC victims. We had 446 teenagers and young adults in foster care in DC in FY16.⁸ In addition, kids who run away are at high risk of becoming victims. The National Center for Missing and Exploited Children reported that, "1 in every 6 runaways reported to the National Center for Missing and Exploited Children in 2016 were likely sex trafficking victims".⁹ Based on calculations from MPD's FY2015 Performance Oversight Report, 1,425 juveniles were reported missing in 2014.¹⁰ Given the high numbers of youth in these populations, it is safe to estimate that the real number of victims per year is in the hundreds.

Many CSEC victims need medical and mental health services to address the long-lasting, complex trauma that often compromises their physical and emotional well-being. They often struggle with long-term physical and mental health problems, including fear and anxiety, post-traumatic stress disorder, drug abuse, depression, sexually transmitted diseases, and traumatic bonding with the trafficker.¹¹ If properly crafted, the Child Abuse and Sex Trafficking Amendment Act of 2017 can help provide services for CSEC victims who come in contact with the District's child welfare agency.

FEDERAL REQUIREMENTS AND DC COMPLIANCE

In 2015, Congress passed the Justice for Victims of Trafficking Act (JVTA) of 2015, which required that child victims of trafficking be considered victims of abuse and

neglect.¹² Specifically, JVT A amended the Child Abuse Prevention and Treatment Act (CAPTA), which is the federal legislation that provides funding to state child welfare agencies to prevent, assess, investigate and prosecute child abuse and neglect,¹³ and required state child welfare agencies to do the following by May 29, 2017:

- Create new procedures that identify and assess reports of children known or suspected to be victims of sex trafficking.
- Provide services to children known or suspected to be victims of sex trafficking.
- Report the number of children known or suspected to be victims of sex trafficking.¹⁴
- Amend their definitions so that children known or suspected to be victims of sex trafficking are considered victims of child abuse and neglect and sexual abuse regardless of whether the perpetrator is a parent, guardian, or custodian.

DC is not currently in compliance with this law. DC has created a new investigation and assessment procedure.¹⁵ However, this procedure fails to meet the federal requirement to provide services to all children known or suspected to be victims of sex trafficking, because it instructs CFSA staff to merely provide referrals when a child has been trafficked by a non-caregiver.¹⁶ CFSA's investigative, supportive, and

case management services are reserved for CSEC cases where the parent or legal guardian has trafficked the youth.¹⁷

In order to come into compliance with the JVTa, the Mayor requested that the Act, and temporary and emergency versions of it, be introduced. The Council passed the emergency and temporary bills on May 2, 2017 and May 16, 2017, respectively.¹⁸ It is important to note that Councilmember Nadeau made multiple amendments to those bills. We are thankful for her efforts and urge that similar changes be made to the Act. Chairman Allen, you also supported these amendments, and we are hopeful you will support similar amendments here.

CHILDREN'S LAW CENTER'S RECOMMENDATIONS FOR THE ACT

Amend Title 4 Definitions Instead of Title 16 Definitions to Avoid Unintended Negative Consequences.

The D.C. Code contains two titles that mandate CFSA to provide services to children who are identified as "abused" or "neglected" in two different settings. D.C. Code Title 16, Chapter 23 ("Title 16") provides a definition of abuse and governs CFSA's actions within the context of court proceedings. The definitions of "abused"¹⁹ and "neglected"²⁰ in Title 16 are used by CFSA when the agency brings child abuse and neglect cases on behalf of children. The mandates in Title 16 are specific to CFSA's responsibilities to the court and as the legal custodian of children in foster care. D.C. Code Title 4, Chapter 13 ("Title 4") provides definitions of abused and neglected and

governs CFSA's actions within the context of public care. Although the definitions of abused or neglected contained in Title 4 cite to the definitions contained in Title 16,²¹ the actions mandated by Title 4 are specific to CFSA's functions as a public-service providing, investigation agency. Pursuant to Title 4, CFSA is responsible for:

- "Assessing child and family strengths and needs in response to reports of abuse and neglect"²²
- "Conducting a social service investigation of child abuse and neglect cases"²³
- "Offering appropriate, adequate, and when needed highly specialized, diagnostic and treatment services and resources to children and families when there has been a supported finding of abuse or neglect..."²⁴

The services that CFSA provides to victims varies by context. Under Title 16, CFSA is required to provide in-depth case management and support to children who have been commercially sexually exploited by a parent, guardian, or custodian when CFSA prevails in a child abuse and neglect case brought on the children's behalf.²⁵ Additionally, under CFSA policy, children who have been commercially sexually exploited by a parent, guardian, or custodian receive a joint investigation with CFSA and MPD, and a comprehensive set of referrals, including: referrals to a resource that specializes in the assessment and treatment of CSEC; referrals to mental health services; and referrals to trauma-informed medical care.²⁶

In contrast, CFSA only offers a referral to MPD and one referral to a community-based resource that specializes in the assessment and treatment of CSEC to those children who have be commercially sexually exploited by someone other than a parent, guardian, or custodian.²⁷ This limited response can, in part, be explained by the fact that nearly all the definitions of abuse and neglect contained in Title 16 (to which Title 4 currently cites) only identifies abused and neglected children as children whose parents, guardians, or custodians are in some way culpable for the abuse or neglect.²⁸

The JVTA amendments require CFSA to treat all trafficked children as abused children, regardless of their relationship to the trafficker. CFSA's limited response to children who have be commercially sexually exploited by someone other than a parent, guardian, or custodian is not in compliance with the new federal requirements. Therefore, the Act needs to ensure that the definitions of "abused" and "neglected child" allow CFSA to identify and provide services to all children who have been commercially and sexually exploited. Because it is currently CFSA's policy to refrain from offering investigative or specialized diagnostic services to youth who are trafficked by a non-caregiver, the Act should clearly communicate that all child victims are eligible for these services.

Currently, the Act proposes to amend the definitions of "abused" and "neglected child" in D.C. Code §16-2301. Amending Title 16's definitions of abuse to include children who have be commercially sexually exploited by someone other than a parent,

guardian, or custodian would allow CFSA to bring child abuse and neglect court cases against a parent on behalf of those children, even if the parent was seeking services to prevent the trafficking.^{29,30} Children's Law Center is concerned that the risk of court involvement would deter non-culpable parents from seeking out services and referrals from CFSA. Additionally, youth may not disclose that they are being trafficked by a non-caregiver, if their caregivers could be unfairly brought into the court system.

Additionally, Children's Law Center is concerned that changing the definitions in Title 16 could have the unintended consequence of bringing non-caregivers into child abuse and neglect cases. Child abuse and neglect cases are structured to remedy the risk of harm that parents or caregivers pose to the welfare of the child. CFSA expects parents to make a case plan and engage in services that will help keep the child healthy and safe, such as parenting classes, family therapy, or substance abuse treatment. Judges in the child abuse and neglect court are able to intervene into the private lives of these parents and caregivers and order them to participate in services after CFSA sufficiently proves that the child is abused or neglected because the parent or caregiver failed to provide some type of parental care or attention. The child abuse and neglect court is not designed to have jurisdiction over non-caregivers. These ordered services are unsuitable for non-caregivers who have exploited children, and the courts are not prepared to have culpable non-caregivers participate in these sensitive matters. If such a change were contemplated, key stakeholders would need to be engaged in a much

more thoughtful and lengthy discussion. We understand that the Act was not drafted with the intent to bring non-caregivers into the child abuse and neglect court system, but the proposed amendment to Title 16 could make this unintended consequence a reality. By solely amending Title 4, the Council will make it clear that the definitional change is not intended to broaden the types of court cases that CFSA can bring on behalf of children.

In addition to the definition changes made by Councilmember Nadeau, the enacted emergency and temporary legislations include an amendment to D.C. Code § 4-1301.02(1), which adds a subparagraph that reads: "Nothing in this paragraph shall be construed as preventing or intending to prevent sex trafficking or severe forms of trafficking in persons from being considered a form of sexual abuse for purposes of D.C. Official Code § 16-2301(32)." Children's Law Center supports the addition of this language and recommends that it be additionally amended to conclude with the following phrase: "where the child is abused by his or her parent, guardian, or custodian." This additional phrase will make it clear that the changes to the definitions in Title 4 do not enable CFSA to bring neglect court cases where children are not being exploited by their parent, guardian, or custodian.

Insert Federal Definitions, Instead of Citing to Federal Definitions

Lastly, Children's Law Center recommends that the Act insert the federal definitions of "sex trafficking" and "severe forms of trafficking in persons", instead of

citing to those federal definitions. Children's Law Center is concerned that citing to the federal law will place the determination of the service eligibility upon the federal definition, which the Council has no ability to amend, and which Congress could amend in manner contrary to the best interests of the District's child victims. For example, Congress could remove "recruitment" from the definition of "sex trafficking" and, while CFSA would remain in compliance with federal requirements, victims of child sex trafficking could experience delays in services as the agency reassess their eligibility.

To provide a concrete example, the enacted temporary legislations reads:

“(ii) Sexual abuse, which shall include sex trafficking or severe forms of trafficking in persons as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9XA)).”

Sex trafficking, according to the Trafficking Victims Protection Act of 2000, “means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.”³¹ The same federal law defines severe forms of trafficking in person as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;...”³² Children's Law Center suggests that the following specific subsection be added to the Act's definition of “abused”:

"(ii) A child who has been recruited, harbored, transported, provided, obtained, patronized, or solicited for the purpose of a commercial sex act, as defined by D.C. Code § 22-1831 (4); or

"(iii) A child who has been recruited, harbored, transported, provided, obtained, patronized, or solicited for the purpose of a commercial sex act by force, fraud, or coercion as defined by D.C. Code § 22-1831."

In the event that the Council concludes that legal sufficiency requires a citation to the TVPA, then Children's Law Center recommends that the Act be amended to include the citation, as well as the language provided above.

Furthermore, we urge the Council to insert the federal language and cite to D.C. Code as necessary, because some of the relevant DC definitions are broader than their federal counterparts and these differences could cause confusion. For example, the D.C. Code's definitions of "coercion" and "commercial sex act" are even more progressive than the federal definitions of "coercion"³³ and "commercial sex act".³⁴ By citing to a more narrow definition of these terms, it will be possible that a youth that is promised something of value, in exchange for a sex act, would be a victim under DC criminal law but would not be eligible for CFSA services as a victim of sex trafficking. This inconsistency is likely to cause confusion, especially in instances where CFSA and MPD conduct joint investigations.

MANDATORY REPORTING & SAVRAA

Councilwoman Nadeau amended the temporary and emergency legislations to include sections that changed the definitions that the mandatory reporting law refers to. Under the enacted temporary legislation, mandated reporters are required to report to MPD or CFSA, if they know or have reasonable cause to suspect that a child they work with has been or is at immediate risk of being abused or neglected as defined in D.C. Code § 4-1301.02(15A).³⁵

Given that a similar amendment is likely to be made to the permanent legislation, Children's Law Center has assessed this potential amendment in light of the mandatory reporting exceptions contained in the proposed Sexual Assault Victims' Rights Amendment Act (SAVRAA) of 2017, which is also being considered today.³⁶ SAVRAA proposes to create a sexual assault victims advocate for youth victims between the ages of 12 and 17. The bill amends D.C. Code § 14-321(b) to create an exemption for advocates for youth victims from the mandatory reporting requirement of D.C. Code § 4-1321.02, except in the following instances:

- Where the child victim is under the age of 12;
- Where the child victim has a significant relationship with the alleged perpetrator; or
- Where there are more four or more years between the ages of child victim and the alleged perpetrator.

Children's Law Center supports the proposed exceptions to the mandatory reporting exemption contained in SAVRAA. Furthermore, instances of CSEC and child sex trafficking, where a caregiver is culpable, are likely to fall under the significant relationship exception; therefore, the advocate would be mandated to report these instances. We believe the mandatory reporting exemptions are likely to encourage youth to disclose their victimization and resulting needs. Given the large issue of underreporting, it is very important that youth have the ability to be transparent with their advocate. Additionally, this exemption will not forbid an advocate from reporting victimizations, such as commercial sexual exploitation, to CFSA. Rather, the bill allows youth to participate in the decision to report to CFSA and allows the advocate the latitude to share confidential information to protect a child or someone else from a substantial risk of imminent and serious physical injury.³⁷ For these reasons, Children's Law Center supports the exceptions and exemptions found in SAVRAA.

CONCLUSION

Thank you for the opportunity to testify, and I look forward to answering any questions.

¹ Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

- ² E. Hines & J. Hochman, *Sex Trafficking of Minors in New York: Increasing Prevention and Collective Action*, New York Women's Foundation (2012), available at: http://nywf.org/wp-content/uploads/2012/07/NYWF_Sex-Trafficking-of-Minors.pdf.
- ³ Victims of Trafficking and Violence Protection Act of 2000. Public Law 106-386 [H.R. 3244]. 28 October 2000. Section 103(9).
- ⁴ National Human Trafficking Hotline. *District of Columbia*. Retrieved from <https://humantraffickinghotline.org/state/district-columbia>.
- ⁵ MPD FY16 Performance Oversight Responses, Q57.
- ⁶ E. Hines & J. Hochman, *Sex Trafficking of Minors in New York: Increasing Prevention and Collective Action*, New York Women's Foundation (2012), available at: http://nywf.org/wp-content/uploads/2012/07/NYWF_Sex-Trafficking-of-Minors.pdf.
- ⁷ Interagency Council on Homelessness. *Solid Foundations DC: Strategic Plan to Prevent and End Youth Homelessness*. (2017), p. 14, available at https://ich.dc.gov/sites/default/files/dc/sites/ich/page_content/attachments/Solid%20Foundations%20DC%20web%201.3.pdf.
- ⁸ Calculated from CFSA FY17 Responses to Proposed Budget Oversight Pre-Hearing Questions, Q58.
- ⁹ National Center for Missing and Exploited Children. *Child Sex Trafficking*. Retrieved from <http://www.missingkids.org/lime>; It is important to note that MPD is not required to report cases to the National Center for Missing and Exploited children until the child has been missing for 30 days. B20-0714 - Sex Trafficking of Children Prevention Amendment Act of 2014. Retrieved from <http://vsconfronts.org/workspace/attachments/clc-fact-sheet-final-version-5.15.15-.pdf>.
- ¹⁰ MPD FY15 Performance Oversight Responses, Q66.
- ¹¹ Department of Health and Human Services, Administration for Children, Youth, and Families. *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States*. Retrieved from https://www.acf.hhs.gov/sites/default/files/cb/acyf_human_trafficking_guidance.pdf.
- ¹² Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22 129 Stat. 227, 263-64. "IN GENERAL.—For purposes of section 3(2) and subsection (a)(4), a child shall be considered a victim of 'child abuse and neglect' and of 'sexual abuse' if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of sex trafficking (as defined in paragraph (10) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) or a victim of severe forms of trafficking in persons described in paragraph (9)(A) of that section." Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22 129 Stat. 227, at 264 (emphasis added).
- ¹³ Child Welfare Information Gateway, "About CAPTA: A Legislative History." <https://www.childwelfare.gov/pubs/factsheets/about/>.
- ¹⁴ CFSA has historically reported the number of children known or suspected to be victims of sex trafficking in its Performance Oversight Reports and is, therefore, in compliance with this requirement.
- ¹⁵ On January 9, 2017, DC's child welfare agency, CFSA, released an Administrative Issuance, titled "Commercial Sexual Exploitation and Sex Trafficking Identification and Response". This document presents CFSA's procedure for identifying and assessing reports CSEC. See CFSA. "Administrative Issuance: Commercial Sexual Exploitation and Sex Trafficking Identification and Response," <https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29.docx.pdf>.
- ¹⁶ The most recent Administrative Issuance regarding CSEC, instructs CFSA social workers to refer CSEC-involved youth whose parent or legal guardian is not the alleged perpetrator... "to designated community resources specializing in commercial sexual exploitation/sex trafficking assessment and intervention, runaway and homeless youth programs, and other identified resources and services." CFSA. (Jan. 9, 2017). *Administrative Issuance CFSA-17-1*. Retrieved from

[https://cfsa.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20\(final%202017\).docx.pdf](https://cfsa.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20(final%202017).docx.pdf).

¹⁷ CFSA FY15 Performance Oversight Responses, Q43(i) Attachment, 2.

¹⁸ See “The Child Neglect and Sex Trafficking Emergency Amendment Act of 2017” and “The Child Neglect and Sex Trafficking Temporary Amendment Act of 2017”.

¹⁹ D.C. Code § 16-2301(23) reads as follows:

“(23)(A) The term “abused”, when used with reference to a child, means:

- (i) infliction of physical or mental injury upon a child;
- (ii) sexual abuse or exploitation of a child; or
- (iii) negligent treatment or maltreatment of a child.”

²⁰ D.C. Code § 16-2301(9)(A) reads as follows: The term “neglected child” means a child:

- (i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term “reasonable efforts” includes filing a petition for civil protection from intrafamily violence pursuant to section 16-1003;
- (ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;
- (iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;
- (iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;
- (v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has been abused;
- (vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;
- (vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;
- (viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;
- (ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or
- (x) who is regularly exposed to illegal drug-related activity in the home.

²¹ D.C. Code § 4-1301.02 reads: “For the purposes of this subchapter: (1) “Abused”, when used in reference to a child, shall have the same meaning as is provided in § 16-2301(23)....(15A) “Neglected child” shall have the same meaning as is provided in § 16-2301(9).”

²² D.C. Code § 4-1303.01a(b)(3A).

²³ D.C. Code § 4-1303.01a(b)(5).

²⁴ D.C. Code § 4-1303.01a(b)(7).

²⁵ See, for example D.C. Codes § 16-2319. Note also, that a court is likely to find that a child whose parent is complicit in the sex-trafficking is a neglected child under D.C. Code § 16-2301 (9)(A)(i). A court is likely to find that a child whose parent is inexcusable unaware of the sex-trafficking of the child is a neglected child under D.C. Code § 16-2301 (9)(A)(ii).

²⁶ See, CFSA, "Commercial Sexual Exploitation and Sex Trafficking identification and Response," at 3-4. [https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-](https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf)

[%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf](https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf).

²⁷ See, CFSA, "Commercial Sexual Exploitation and Sex Trafficking identification and Response," at 4.

[https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-](https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf)

[%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf](https://cfsa.dc.gov/sites/default/files/dc/sites/cfsa/publication/attachments/AI%20-%20Sex%20Trafficking%20Identification%20and%20Response%20%28final%202017%29docx.pdf).

²⁸ See, D.C. Code §§ 16-2301(9)(A)(i)-(x), (23)(B), (24), (25). Only the three following sections do not directly reference the term "parent, custodian, or guardian": D.C. Code § 16-2301(23A), (32), and (33). Note, however, that "parent, custodian, and guardian" are linked to these sections by D.C. Code § 16-2301(9)(A)(i).

²⁹ D.C. Code § 11-1101(a)(13): "(a) In general. -- The Family Court of the District of Columbia shall be assigned and have original jurisdiction over -- ...

(13) proceedings in which a child, as defined in section 16-2301, is alleged to be delinquent, neglected, or in need of supervision;"

³⁰ Additionally the Children's Law Center opposes an amendment to Title 16 because multiple other titles and chapters refer to its definitions of "abuse" and "neglect." For example, see D.C. Code § 38-2561.03 and D.C. Code § 4-203.01.

³¹ See, 22 U.S.C.A. § 7102(10).

³² See, 22 U.S.C.A. § 7102(9)(A).

³³ 22 U.S.C. 7102(3). "(A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of the legal process."

³⁴ 22 U.S.C. 7102(4). "The term "commercial sex act" means any sex act on account of which anything of value is given to or received by any person."

³⁵ See, the "Child Neglect and Sex Trafficking Emergency Amendment Act of 2017."

³⁶ See, the "Sexual Assault Victims' Rights Amendment Act (SAVRAA) of 2017."

³⁷ Cite to proposed B22-022 14-321 (b)(1)(D).

rights4girls

To: Committee on Judiciary and Public Safety, Council of the District of Columbia
From: Yasmin Vafa and Maheen Kaleem
Re: Rights4Girls Memorandum on Bill 22-0255, "Child Neglect and Sex Trafficking Amendment Act of 2017"
Date: July 6, 2017

Rights4Girls is a human rights organization working to end sex trafficking and gender-based violence in the U.S. Based in Washington, D.C., we advocate for the dignity and personhood of young women and girls through advocacy at the federal, state, and local levels, coalition-building, public awareness campaigns, and training and technical assistance. Over the past several years, we have been actively involved in the passage of several federal bills aimed at strengthening jurisdictions and reforming systems to effectively identify and respond to victims of domestic child sex trafficking. These bills include the 2013 reauthorizations of the *Violence Against Women Act*¹ and the *Trafficking Victims Protection Act*², the *Preventing Sex Trafficking and Strengthening Families Act of 2014*³, and the *Justice for Victims of Trafficking Act of 2015*.⁴

Rights4Girls currently sits on multiple federal task forces designed to support vulnerable and system-involved youth, including National Advisory Committee on the Sex Trafficking of Children and Youth in the United States, which was created by the *Preventing Sex Trafficking and Strengthening Families Act of 2014*⁵ to guide the implementation of federal legislation pertaining to victims of child sex trafficking in the child welfare system, and to support child welfare agencies across the country to better identify and respond to child victims. In collaboration with the Department of Justice Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the National Council of Juvenile and Family Court Judges (NCJFCJ), we created and currently coordinate an intensive judicial institute on domestic child sex trafficking to train juvenile, family, and tribal court judges on how to identify child sex trafficking victims in their courtrooms and improve their response toward trafficked youth in both the dependency and delinquency contexts. Through that partnership, we are currently providing technical assistance to a number of agencies and providers in D.C. on their child sex trafficking response.

Today we submit this testimony in support of B22-0255, the "Child Neglect and Sex Trafficking Amendment Act of 2017." This bill is necessary not only in order to bring Washington, D.C. into compliance with federal law, but also to ensure that victims of child sex

¹ Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (Mar. 7, 2013).

² Trafficking Victims Protection Reauthorization Act of 2013, H.R. 898 (Mar. 19, 2013).

³ Preventing Sex Trafficking and Strengthening Families Act of 2014, Pub. L. 113-183 (Sept. 29, 2014).

⁴ Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22 (May 29, 2015).

⁵ Preventing Sex Trafficking and Strengthening Families Act of 2013, Pub. L. 113-183 (Sept. 29, 2014), 128 Stat. 1919.

rights4girls

trafficking throughout the District are effectively identified and supported across agencies and throughout the community.

1. Congress intended for child welfare agencies to be responsible for identifying, serving, supporting, and collecting data on the prevalence of child sex trafficking in their system.

The Preventing Sex Trafficking and Strengthening Families Act of 2014 imposed a number of requirements on state child welfare agencies as a requirement for Title IV-E funding. First, the law mandated that by Sept. 29, 2016, any state child welfare agency receiving federal funds must 1) develop policies, procedures, and protocols to identify children within their care who are confirmed to be or are at risk of becoming a sex trafficking victim, 2) document these identifications in agency records and through the AFCARS system, and 3) determine appropriate services for these children.⁶ The legislation also encouraged states to collaborate with juvenile justice agencies, law enforcement, education agencies, healthcare professionals, and specialized providers to identify and serve all victims of trafficking under the age of 26 “without regard to whether the individual is or was in foster care under the responsibility of the state.”⁷

This bill came about as the result of significant advocacy on the part of foster youth advocates, former foster youth themselves, survivors of child sex trafficking, practitioners and policy experts who recognized the exceptional vulnerability of children in foster care to become trafficked, as well as the unique vulnerability that trafficked youth have to be funneled into the juvenile justice system when the child welfare system fails to respond appropriately to their exploitation.⁸

Congresswoman Karen Bass (D-CA), one of the bill’s primary champions and co-chair of the Congressional Caucus on Foster Youth, made clear that this legislation was intended to benefit all sex-trafficked youth—not just those in child welfare. During a hearing on Preventing and Addressing Sex Trafficking in Foster Care, she drew particular attention to the fact that many of youth in the juvenile justice system who were identified as trafficking victims had histories of child welfare involvement.⁹ Senator Orrin Hatch (R-UT) echoed these concerns and specifically noted that when child welfare agencies refuse to serve trafficked youth who are not already

⁶ Id., 128 Stat. 1921.

⁷ Id.

⁸ Hearing: *Preventing and Addressing Sex Trafficking of Youth in Foster Care, Before the Subcomm. on Human Resources, H. Comm. On Ways and Means*, 113th Cong. (Oct. 23, 2013) (testimony of Rep. Louise M. Slaughter).

⁹ Hearing: *Preventing and Addressing Sex Trafficking of Youth in Foster Care, Before the Subcomm. on Human Resources, H. Comm. On Ways and Means*, 113th Cong. (Oct. 23, 2013) (testimony of Congressmember Karen Bass).

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involved in the child welfare system, those youth are arrested and placed in juvenile justice systems that are ill-equipped to address their trauma.¹⁰

By mandating that child welfare systems improve their identification and response to victims of child sex trafficking, Congress clearly demonstrated its intent for these agencies to collaborate across systems, and to play a central role in each jurisdiction's efforts to prevent and address child sex trafficking.

2. Congress intended for victims of child sex trafficking to be contemplated as victims of child abuse, even when the trafficking did not occur at the hands of a parent or caretaker.

Even after Congress passed a law demonstrating the need for child welfare to bolster its efforts to respond to child sex trafficking, in most states throughout the country, child welfare agencies could not respond to instances of child sex trafficking—even in situations where the child was already known to the system—unless the trafficking was being carried out by a parent or guardian. Consequently, a year after the *Preventing Sex Trafficking and Strengthening Families Act* was passed, Congress passed the *Justice for Victims of Trafficking Act (JVTA)*¹¹ to address this critical gap. One of JVTA's primary goals was to recognize child sex trafficking as a form of violence and abuse that warrants a trauma-informed response, and to shift focus away from criminalizing victims and towards those who purchase and exploit vulnerable children for sex.¹² Significantly, the bill amended the definition of child abuse and neglect under CAPTA to expressly contemplate child sex trafficking as a form of abuse and neglect under federal definitions,¹³ thereby empowering state child welfare agencies to respond to victims of child sex trafficking regardless of their abuse was carried out by a parent or caretaker.

The CAPTA amendment in JVTA came about as a direct response to the resistance many child welfare agencies had to responding to victims of child sex trafficking when the trafficker was not a parent or guardian.¹⁴ Members of Congress recognized that without making clear that

¹⁰Hearing: *Preventing and Addressing Sex Trafficking of Youth in Foster Care, Before the Subcomm. on Human Resources, H. Comm. On Ways and Means*, 113th Cong. (Oct. 23, 2013) (testimony of Rep. Orrin Hatch).

¹¹ Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22 (May 29, 2015).

¹² Hearing: *Human Trafficking in the United States: Protecting the Victim, Before the Sen. Comm. On Judiciary*, 114th Cong. (Feb. 24, 2015) (testimony of Sen. Chuck Grassley); Hearing: *Human Trafficking in the United States: Protecting the Victim, Before the Sen. Comm. On Judiciary*, 114th Cong. (Feb. 24, 2015) (testimony of Sen. Patrick Leahy); Hearing: *Human Trafficking in the United States: Protecting the Victim, Before the Sen. Comm. On Judiciary*, 114th Cong. (Feb. 24, 2015) (testimony of Sen. Kirsten Gillibrand); Hearing: *Preventing and Addressing Sex Trafficking of Youth in Foster Care, Before the Subcomm. on Human Resources, H. Comm. On Ways and Means*, 113th Cong. (Oct. 23, 2013) (testimony of Rep. Ted Poe).

¹³ Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22, 129 Stat. 227, 263-64. Under federal law, a child is a victim of a severe form of sex trafficking if a person engages in the "recruitment, harboring, transportation, provision, obtaining, patronizing of a person" for the purposes of a commercial sex act with a person under the age of 18. (22 U.S.C. §§ 7102(9)(a)-(10)).

¹⁴ *Supra*, n. 10.

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child sex trafficking must be understood as a form of child abuse, victims of child sex trafficking both known to the system, as well as those who were not previously involved in child welfare, would face arrest and prosecution for prostitution-related offenses. It was therefore critical to ensure that child sex trafficking victims be afforded access to the protections offered through a system designed to be more trauma-informed, and whose primary concern is the child's safety and wellbeing.¹⁵

Even in jurisdictions that no longer arrest children for prostitution, victims of child sex trafficking can find themselves in the juvenile justice system for other offenses related to their victimization, such as running away, loitering, or truancy.¹⁶ As part of the JVTFA, Congress passed the *Stop Exploitation Through Trafficking Act* (SETT) to encourage law enforcement and juvenile justice professionals who identified victims of child sex trafficking to divert them away from the juvenile justice system and into child protective services wherever possible.¹⁷ Led by Senator Amy Klobuchar of Minnesota, SETT was based on Minnesota state law that prohibited the arrest of identified victims of child sex trafficking, and instead diverted those victims to the care of child protective services and other community-based agencies, based on a recognition that child protection responses are more appropriate for victims of sexual exploitation than arrest and incarceration in juvenile detention facilities.¹⁸

The passage of the *Preventing Sex Trafficking and Strengthening Families Act of 2014*, as well as the aforementioned provisions in the *Justice for Victims of Trafficking Act* are clear indications that Congress intended for child welfare agencies to be able to respond to all victims of child sex trafficking based on their experience with this particular type of victimization, rather than the identity of their exploiter. Therefore, any amendments to D.C. law should make clear that CPFA can respond to any instance of child sex trafficking, regardless of whether or not a parent or guardian was complicit in the trafficking and whether or not the child is already known to the child welfare system. Should members of the Committee have any questions regarding this testimony, please contact Yasmin Vafa, Executive Director at yasmin@rights4girls.org or (202) 821-1625.

¹⁵ Id; *Hearing: Human Trafficking in the United States: Protecting the Victim, Before the Sen. Comm. On Judiciary*, 114th Cong. (Feb. 24, 2015) (testimony of Sen. Patrick Leahy); *Hearing: Human Trafficking in the United States: Protecting the Victim, Before the Sen. Comm. On Judiciary*, 114th Cong. (Feb. 24, 2015) (testimony of Sen. Kirsten Gillibrand)

¹⁶ Saar, M.S., Epstein, R., Rosenthal, L., and Vafa, Y., *The Sexual Abuse to Prison Pipeline: The Girls' Story* (Rights4Girls, Georgetown Law Center on Poverty and Inequality, Ms. Foundation, 2015), pp. 19-23.

¹⁷ *Stopping Exploitation Through Trafficking Act of 2015*, Title IV of *Justice for Victims of Trafficking Act of 2015*, Pub. L. 114-22, 129 Stat. 258-259.

¹⁸ Williams, R., *Safe Harbor: State Efforts to Combat Child Trafficking* (National Conference of State Legislatures, Apr. 2017), pp. 4.



WHITMAN-WALKER HEALTH

Mailing Address:

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1701 14th St., NW
Washington, DC 20009

BEFORE THE COUNCIL OF THE DISTRICT OF COLUMBIA COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

**Testimony of Whitman-Walker Health on
Bill 22-222, the Sexual Assault Victims' Rights Amendment Act of 2017
Bill 22-255, the Child Neglect and Sex Trafficking Amendment Act of 2017
Bill 22-266, the Victim Services Omnibus Amendment Act of 2017
July 13, 2017**

Pursuant to the Committee's Notice of Hearing of June 13, 2017, Whitman-Walker Health (WWH or Whitman-Walker) is pleased to submit this written testimony in support of these three important bills – with a recommendation for amendment of Bill 22-222 to ensure that youth advocates and health professionals involved in examinations of sexual assault victims receive appropriate training in issues related to sexual and gender minorities.

Interest and Experience of Whitman-Walker

WWH provides high quality, affirming health care to more than 16,000 individuals, including nearly 12,000 DC residents – approximately 3,000 of whom are living with HIV and 60% of whom are members of the city's gay, lesbian, bisexual, and transgender communities. Providing consumers with integrated care by offering primary medical, behavioral health, dental, legal services, insurance navigation, health education and wellness services, WWH serves consumers from every Ward in the City at our four sites – the Elizabeth Taylor Center in Ward 2; our northwest clinical site, "1525", in Ward 2; Youth Services in Ward 6; and, the Max Robinson Center, our Southeast clinical site, in Ward 8.

In February 2015, Metro TeenAIDS became part of Whitman-Walker. Our Youth Services site near Eastern Market provides a wide range of health-related services to DC youth and their families, as well as to youth in the larger metropolitan area, including:

- individual and group psychotherapy for youth who identify as lesbian, gay, bisexual, transgender, queer or questioning (LGBTQ) who have experienced or have witnessed a crime;

- health care navigation for young people who are living with HIV;

- our Stable Families program, which provides support for families affected by HIV, including HIV-positive pregnant women;

- HIV, STI and pregnancy testing and counseling services;

- our REAL TalkDC program, which links young people ages 13 to 24 years old to sexual health information; leadership and workforce readiness training opportunities; free condoms; and HIV/STI/pregnancy testing; and

- Capacity Talk, which offers free capacity building services to youth-serving organizations and schools in the District.

In calendar year 2016, we provided one or more of these services to more than 3,000 young people, and to a number of their families. More than 80% of these clients were DC residents.

Whitman-Walker Youth Services works with many DC young people who have been victims of crime or sexual assault or whose families and social networks are affected by these issues. We applaud the Mayor for introducing these landmark bills and urge the Council to approve them – with the modification to Bill 22-222, discussed below, to ensure culturally sensitive, appropriate services to LGBTQ individuals.

Bill 22-222, the Sexual Assault Victims' Rights Amendment Act of 2017

Whitman-Walker strongly supports this bill, as it aims to provide young people with the same protections and rights as their adult counterparts. Youth are often fearful of disclosing a

sexual assault as the ramifications extend beyond that incident. As with any assault the trauma strips the victim of any control and often the systemic response exacerbates this loss of control. For youth, this can include who knows about the incident and involvement of parents/guardians who may or may not be safe and healthy for that young person. Bill 22-222 affords minors the same right to an advocate that adults have. The advocate supporting a young person through this complex process and system is vital for recovery and resilience.

Additionally, we support the provisions in the bill that provide a young person who has experienced sexual assault supports through an advocate who is exempt from mandated reporting except in specific circumstances, and that the youth's parents/guardians are brought in only when that youth feels comfortable. Removing the advocate from the mandate of reporting to CFSA allows this relationship to be safe and the minor to have control over the identification of who the safe adult is in their life. Additionally, this safeguard takes into account family-level trauma that may be impacted by disclosure of an assault. The basis of a trauma-informed response to an assault is that it is client-centered and not necessarily parent/family centered; the client should maintain as much control as possible.

Need to ensure that sexual assault victim advocates and SANE nurses are trained in the needs and particular vulnerabilities of sexual and gender minority individuals.

Particularly when there is a sexual incident or relationship that is legally a criminal assault because the alleged victim is a minor and the alleged perpetrator is more than four years older, but not a parent, teacher or other adult in a position of authority, we believe that caution is well-advised before notifying CFSA or involving the family. This caution is particularly important when the young person or young people involved are LGBTQ. There can be a fine line between sexual experimentation and nonconsensual abuse, and involving an abuse and neglect system, or

a family, that may lack understanding or even be hostile, can cause great harm. Therefore, we recommend that bill 22-222 be amended to specifically require that youth advocates, as well as SANE nurses, receive training on LGBTQ issues as they pertain to both adults and youth. The training should specifically be focused on development of youth and their sexual identity and additional complexities of sexual assault for LGBTQ youth – including risks involved in disclosure of sexual or gender identity to family and peers. Advocates and nurses should be trained on youth-specific responses to sexual assault including the implications of trauma on sexual identity and development. Youth are able to access this program through Children's National Medical Center and Washington Hospital Center – and, given that WHC is an adult centered facility, staff should be trained to respond to the unique needs of a young person.

We therefore recommend that Section 2 of Bill 22-222 be modified to amend Chapter 19, Subchapter II, of Title 23 of the DC Code, by adding a new provision, § 23-1908, that would state:

§ 23-1908a Training of SANE personnel and sexual assault victim advocates

The DC SANE Program, and the OVSJG, shall ensure that all SANE nurses and other personnel providing care to victims of alleged sexual crimes, and all sexual assault victim advocates, receive appropriate training in the needs and special issues faced by lesbian, gay, bisexual, transgender and questioning youth and adults, and other sexual and gender minority individuals, and the needs and special issues that may be faced by other minorities.

Bill 22-255, the Child Neglect and Sex Trafficking Amendment Act of 2017

We support the proposal to amend DC law to expressly provide that a child who is a victim of sex trafficking be considered a victim of child neglect or abuse, whether or not the perpetrator or individual involved in the trafficking is a parent/guardian or another adult in a

position of authority, such as a teacher or coach. This change will allow any young person who is a victim of sex trafficking to receive services from CFSA.

Many of our young people either receiving services through our peer education drop-in center, youth mental health program, or youth care navigation/STABLE Families programs either have experiences with sex trafficking, know a peer who has been sex trafficked, or live in fear of being “snatched” on the street and sex-trafficked (specifically with the recent publicity regarding young black women in DC going missing). This legislation would increase supports available to young people who have experienced sex trafficking by connecting them with CFSA. Involvement of CFSA is preferable to simply turning the case over to the MDP because it allows the young person (and their family, when appropriate) to receive services that are based on strengths and recovery- and resilience-focused, rather than focused on prosecution.

Bill 22-266, the Victim Services Omnibus Amendment Act of 2017

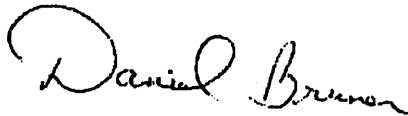
Whitman-Walker is strongly in favor of Bill 22-266. Currently our Youth Mental Health program is funded entirely through DC’s Office of Victim Services and Justice Grants to provide mental health services to LGBTQ youth/young adults who have experienced or witnessed crime. This legislation would provide better supports for the young people we serve through our OVSJG-funded program. More broadly, WWH has significant numbers of patients and clients, of every age, who have been victims of violence or who are at significant risk of violence. This bill would provide much better support for these individuals as well.

In particular, we believe that Title I of the bill, which addresses victim confidentiality, is well thought-out and has a strong mechanism for implementation. We also are pleased to state that the Violence Fatality Review Board, created by title II, is a much-needed innovation that should allow for better documentation of violence and trends in violence, which impact our

clients significantly: the youth (LGBTQ and non-LGBTQ) and families who are clients of WWH Youth Services, as well as our adult health care patients and legal clients of every sexual orientation and gender identity.

Thank you for the opportunity to share our views. If you would like additional information, or if we can assist the Committee or the Council in any other way, please contact Daniel Bruner, (202) 939-7628, dbruner@whitman-walker.org.

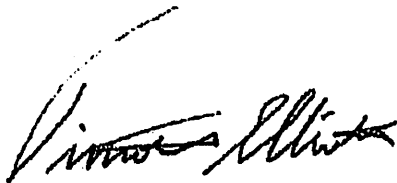
Respectfully submitted,



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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Public Hearing on
Bill 22-255, the "Child Neglect and Sex Trafficking Amendment Act of 2017"

Testimony of
Cory Chandler
CFSA General Counsel

before the

Committee on the Judiciary and Public Safety
Council of the District of Columbia

June 22, 2017
10:30 a.m.
John A. Wilson Building, Room 412
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004



Good morning, Chairman Allen and members of the Committee on the Judiciary and Public Safety. I am Cory Chandler, the General Counsel for the District of Columbia's Child and Family Services Agency (CFSA). I am testifying today on behalf of Director Donald, on Bill 22-255, the "Child Neglect and Sex Trafficking Amendment Act of 2017."

Congress enacted the "Justice for Victims of Trafficking Act of 2015" (JVTA) to address human trafficking and the needs of victims. It requires child welfare agencies to play a greater role in identifying and responding to child sex trafficking cases as a condition for receiving Child Abuse Prevention and Treatment Act (CAPTA) funding.

To be eligible for CAPTA funding, child welfare agencies must consider all child sex trafficking victims to be victims of abuse and neglect and victims of sexual abuse, regardless of whether the maltreater is a parent, guardian, or custodian. Child welfare agencies must also identify and assess all reports involving children known or suspected to be victims of sex trafficking. And finally, child welfare agencies must train child protective services workers in identifying, assessing, and providing services for these victims.

Prior to passage of emergency legislation the statutory framework limited CFSA's authority to investigating child sex trafficking cases involving a parent, guardian, or custodian. Cases involving non-caregivers were referred to the Metropolitan Police Department (MPD). CFSA's involvement was limited to making an initial assessment regarding child safety and well-being and working with MPD to make referrals to appropriate community providers.



Because preventing and responding to sex trafficking has been a priority, CFSA has already complied with many of the requirements of the JVTa through policy and practice directives. CFSA has published guidance for staff on identifying, responding to, and supporting sex trafficking victims. We work closely with law enforcement and community partners to investigate and assess sex trafficking allegations, and to provide coordinated services to victims who are within the care of CFSA. We work with community partners to deliver multi-disciplinary training to staff and third parties, in addition to ensuring that social workers receive mandatory training.

Permanent local legislation is necessary for CFSA to remain in compliance with the CAPTA mandate that child welfare agencies respond to all sex trafficking cases, regardless of whether the maltreater is a caregiver. The proposed bill will permanently eliminate barriers that prevent CFSA from responding to sex trafficking reports involving non-caregivers and bring the District into compliance with federal law by amending the definitions of "neglected child" and "sexual abuse" found in the D.C. Code to include sex trafficking victims. These legislative changes will allow CFSA to provide these child victims with appropriate services and treatment options.

Prior to passage of emergency legislation, CFSA's practice concerning sex trafficking cases required a joint investigation with the Metropolitan Police Department Youth Division (MPD/YD) if the allegation involved a parent, guardian, or custodian. If the allegation involved a non-caregiver, the matter was referred to MPD for sole investigation, because CFSA lacked jurisdiction to investigate the matter.



As a result of the passage of the emergency legislation, CFSA's practice has expanded. Any hotline call reporting allegations of sex trafficking of a minor will involve a joint investigation with MPD/YD, regardless of the identity of the alleged maltreater. Further, CFSA will now have the ability to track and provide data, even if the alleged perpetrator is a non-caregiver. Children identified as victims of sex trafficking will be assessed and linked to community services. In an attempt to be proactive, CFSA began tracking data on sex trafficking cases in July 2016. Since that time, there have been a total of 14 youth confirmed to be victims of sex-trafficking.

It is important to note that the DC Council amended the emergency and temporary versions of the legislation to require mandatory reporting when child sex trafficking is suspected. We agree that mandatory reporting is critical in ensuring that victims are brought to the agency's attention and receive the services they need and fully support the amendment. Specifically, the amendments broaden the definition of "abuse" and "neglected child" in D.C. Official Code § 4-1301.02 to include a victim of sex trafficking or a victim of severe forms of trafficking. Additionally, CFSA has, in consultation with the Committee on Human Services and the Council's Office of General Counsel, decided that D.C. Official Code Title 16 should not be amended. We believe the permanent bill should reflect that joint analysis and remove the references to Title 16. Changes to Title 4 sufficiently place the District in compliance with the CAPTA mandate. We ask that Council incorporate these changes in the permanent legislation.

The Child Neglect and Sex Trafficking Amendment Act of 2017 will not only ensure that the District is in compliance with the new federal sex trafficking requirements, but it will also



improve outcomes for the city's most vulnerable children. I respectfully urge the Council to enact this important and necessary legislation.

Thank you for the opportunity to testify today. I am available to answer any questions you may have.





Statement of Erin Cullen
Deputy Attorney General – Family Services Division
Office of the Attorney General

Before the

The Committee on the Judiciary & Public Safety
The Honorable Charles Allen, Chairperson

Public Hearing

Bill 22-222, the “Sexual Assault Victims' Rights Amendment Act of 2017”
Bill 22-255, the “Child Neglect and Sex Trafficking Amendment Act of 2017”
Bill 22-266, the “Victim Services Omnibus Amendment Act of 2017”

June 22, 2016
10:30 AM
Room 412
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, District of Columbia 20004

Introduction

Good morning Chairman Allen, Councilmembers, staff, and residents. I am Erin Cullen, and I have the privilege of serving as the Deputy Attorney General for the Family Services Division of the Office of the Attorney General ("OAG"). I am pleased to appear on behalf of Attorney General Karl A. Racine before the Committee on the Judiciary & Public Safety to testify on each of the bills on the agenda. Educating residents, particularly young people, about human trafficking and victim advocacy is a top priority of Attorney General Racine. I am pleased to say that each of these bills for Council consideration take important steps toward improving public safety in the District.

Bill 22-253, the "Child Neglect and Sex Trafficking Amendment Act of 2017"

OAG supports the enactment of the *Child Neglect and Sex Trafficking Amendment Act of 2017*. The Justice for Victims of Trafficking Act ("JVTA") requires that child welfare agencies update their state plans to recognize that sex trafficking is a form of child abuse and neglect. Thus, Child and Family Services Agency ("CFSA") must accept hotline calls, regardless of maltreater, that allege a child is a victim of sex trafficking. Currently, those calls, if the parent, guardian or custodian is not involved, are sent to the Metropolitan Police Department ("MPD") for investigation. By requiring child welfare agencies to also investigate, more youth will be identified and linked to services to decrease the victims of this heinous crime.

JVTA is an important piece of legislation that will continue to expand the government's attention and focus on the growing issue of the sexual exploitation of our youth, which leads to

increased episodes of trafficking. By implementing JVTA, we are increasing our ability to keep kids safe.

Attorney General Racine is committed to increasing awareness in schools and the larger community around the warning signs of human trafficking. Recently, with the support of our public schools, OAG unveiled a poster that was developed in collaboration with FAIR Girls, which speaks to the dynamics of sex trafficking. As OAG continues to educate our kids, school officials, parents and concerned citizens, OAG is drawing attention to the ways in which traffickers recruit victims and is helping protect our most vulnerable children from falling into the world of exploitation. By passing JVTA, the Council would expand upon this work and support a multi-agency approach to ensuring that incidents of trafficking are investigated and children are provided the services they need. OAG asks for your continued support in this important fight and urge you to pass the necessary legislation to bring the District into compliance with JVTA.

Bill 22-222, the "Sexual Assault Victims' Rights Amendment Act of 2017"

OAG supports the goals and objectives of the *Sexual Assault Victims' Rights Amendment Act of 2017*, and we look forward to working with this Committee, our partners in government, and relevant stakeholders to clarify and refine certain provisions prior to mark-up. This purpose of the bill is to amend the Sexual Assault Victims' Rights Act of 2014 ("SAVRAA").¹ The bill would, among other things, expand the right of sexual assault victims to have access to a sexual

¹ Effective November 20, 2014 (D.C. Law 20-139; D.C. Official Code § 23-1901 et seq.).

assault victim advocate; clarify the information victims have the right to receive from the Metropolitan Police Department, including a victim's right to receive prompt information regarding the victim's Physical Evidence Recovery Kit; establish the types of communications between a victim and a sexual assault victim advocate that are confidential; expand the reporting requirements of the Department of Forensic Sciences in its annual report; clarify the duties of the Sexual Assault Response Team; clarify the rights of victims when being provided emergency care; make unlawful the removal of a person's clothing without consent; and clarify the right of a victim to compensation under existing insurance policies.

Currently, SAVRAA entitles an adult victim to an independent, non-system advocate who is present at all interviews with law enforcement and prosecution. The role of the advocate is to inform the victim of the process should the victim choose to report or not choose to report the sexual assault. Washington Hospital Center is the main site for the sexual assault nurse examiner exam.

As proposed, the legislation: (1) would extend SAVRAA to victims ages 12 and older; (2) would allow the advocate to be exempt from mandated reporting; (3) does not expressly state that victims can continue to access Children's National Medical Center; and (4) does not expressly state that the Multi-Disciplinary Team currently affiliated with Safe Shores would be incorporated into the process used in the adult system. For the last two matters--Children's Hospital and our multi-disciplinary team--these issues can be easily addressed in the work that would be done to implement SAVRAA should it pass. However, the age group and mandated

reporting changes are areas where OAG has some concerns that it believes can be resolved through discussions with the Committee and stakeholders. As a bit of background, in 2013, Human Rights Watch released a highly critical report on sexual assault services related to adult victims. While that report was disputed by the District, it is important to note that the process involving minor victims were not included in that report because that process had been working relatively well. However, OAG fully supports any effort to ensure the District's juvenile process works better. Moreover, as currently written it may be interpreted that a sexual assault, that was also a child sex trafficking situation, could be a situation where an advocate would not be required to report. While it is possible that a victim of sexual assault will come in contact with a mandated reporter in the course of seeking medical treatment, exempting the advocate from mandatory reporting could have a significant impact on ensuring the safety of victims.

Bill 22-266, the "Victim Services Omnibus Amendment Act of 2017"

OAG supports the enactment of the *Victim Services Omnibus Amendment Act of 2017*. The bill would accomplish two significant purposes. Title I of the bill would establish an "address confidentiality program," in which the Office of Victim Services and Justice Grants ("OVSG") would establish substitute addresses for victims of domestic violence, stalking, and human trafficking ("program participants"), to be used in lieu of their actual physical addresses. OVSJG would forward first class, registered, and certified mail to the victim's actual address. In addition, the victim would be authorized to use the substitute address for certain District government documents, including drivers' licenses, and the District would be prohibited from

releasing a program participant's actual address except to government agencies under specified circumstances or pursuant to a court order. I am advised that at least 36 states have similar programs in place, and the draft bill is based on the laws enacted in those states. OAG suggests that "Domestic Violence" be defined consistent with D.C. Official Code § 16-1001.

Title II of the bill would establish a new Violence Fatality Review Board charged with examining homicide and suicide incidents of District residents between the ages of 19 and 59. This title contains provisions similar to provisions in the D.C. Code establishing the Domestic Violence Fatality Review Board ("DVFRB") and the Child Fatality Review Committee ("CFRC").² The new board would be charged with coordinating with other District fatality review committees to minimize duplicate reviews. With regards to this provision, OAG would like to work with the Committee and the Executive to clarify the term of the Office of the Attorney General member appointed to the Board.

Title III of the bill would establish a \$10,000 limit on the amount that may be paid under the Victims of Violent Crime Compensation Act of 1996³ for funeral and related expenses to victims of crime. Title IV would add the Director of OVSJG as a member of the Criminal Justice Coordinating Council for the District of Columbia.

Conclusion

² Established by, respectively, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002, effective April 11, 2003 (D.C. Law 14-296; D.C. Official Code § 16-1051 *et seq.* (2012 Repl. and 2016 Supp.)), and the Child Fatality Review Committee Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 4-1371.01 *et seq.* (2012 Repl. and 2016 Supp.)).

³ Effective April 9, 1996 (D.C. Law 11-243; D.C. Official Code § 4-501 *et seq.* (2012 Repl.)).

The Office of the Attorney General appreciates the opportunity to testify on these important bills. OAG will continue to work with you and its partners to ensure our policies and laws are effective in protecting public safety and promoting the public interest. I am happy to answer any questions that the members of the Committee may have.

THE
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SERVICE

for the District of Columbia



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Director

Rudolph Acree, Jr.
Deputy Director

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June 22, 2017

Charles Allen, Chair
Committee on Public Safety and the Judiciary
Council of the District of Columbia
1350 Pennsylvania Ave NW, Suite 110
Washington, DC 20004

Re: Bill 22-255, The Child Neglect and Sex Trafficking Amendment Act of 2017

Dear Chairman Allen,

The Public Defender Service for the District of Columbia ("PDS") takes no position on Bill 22-255 if the permanent legislation tracks D.C. Act 22-61, the emergency version of Bill 22-255. If the final legislation does not match the emergency legislation, PDS objects to one portion of Bill 22-255. The Bill would add a fourth definition of "sexual abuse" to the code section containing definitions related to the abuse and neglect of children. The Bill would also define sexual abuse as: "subjecting a child to sex trafficking in persons as defined in paragraphs (10) and (9)(A) of section 103 of the Trafficking Victims Protection Act..." PDS believes that the word "subjecting" is overly broad and could be applied to parents or siblings who are being forced to engage in commercial sex and who are thereby, by virtue of living with the child, "subjecting" the child to sex trafficking. The emergency legislation, D.C. Act 22-61, appropriately defines a "neglected child" as a "victim of sex trafficking or severe forms of trafficking in persons as those terms are defined in section 103(10) and 9(A) of the Trafficking Victims Protection Act..." By using the word victim, the permanent bill would target the precise harm of children being victimized by sex trafficking and the bill would comply with federal funding requirements.

Sincerely,

Katerina Semyonova
Supervisor, Trial Division

ATTACHMENT E

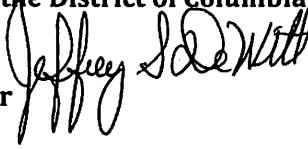
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: November 28, 2018

SUBJECT: Fiscal Impact Statement – Omnibus Public Safety and Justice
Amendment Act 2018

REFERENCE: Bill 22-255, Draft Committee Print as shared with the Office of Revenue
Analysis on November 27, 2018

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

This omnibus bill makes a number of changes – some technical and conforming while others are substantive – to public safety agencies' administration and operations, including the Office of the Attorney General (OAG), the Fire and Emergency Medical Services Administration (FEMS), the Corrections Information Council (CIC), the Advisory Commission on Sentencing, the Office of Victim Services and Justice Grants (OVSJG), the Child and Family Services Administration (CFS), the Metropolitan Police Department (MPD), the Department of Health (DOH), the Domestic Violence Fatality Review Board, and the Department of Corrections (DOC).

The bill authorizes OAG to issue crime reduction and violence prevention grants up to \$360,000¹ and allows OAG to use Litigation Support Fund resources to pay personnel and non-personnel costs associated with this grant-making authority.

The bill establishes the approval process for Mayoral appointees to CIC and the Advisory Commission on Sentencing at a ninety-day Council approval with deemed disapproval if no action is

¹ OAG currently has this authority under temporary legislation (Attorney General Limited Grant-Making Authority Temporary Act of 2018, effective September 1, 2018 (D.C. Law 22-160; 65 DCR 9893)).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

taken. The bill also extends the approval timeline for Mayoral appointees to the Board of Ethics and Government Accountability from forty-five days to ninety days.

The bill requires an agency to maintain its written and electronic records for five years for any meeting or gathering subject to the District's Open Meetings Act.²

In fiscal year 2018, the Council approved an Address Confidentiality Program (Program) administered by OVSJG. The Program allows a victim of domestic violence, stalking, human trafficking, or sexual offenses to request a substitute mailing address where OVSJG receives first class, certified, and registered mail and forwards it to a participant's actual address. Participants can use the substitute address with District government agencies and have that address appear on public records, except for filings and documents related to the Office of Tax and Revenue (OTR).

The bill reaffirms OTR's exemption from the Program by requiring that any document filed with OTR must include the participant's actual address. The bill further provides that OTR cannot index assessment, tax, or other recorded information by a participant's name in any online database, unless those documents are related to a court order, judgment, lien, or debt collection. The bill also authorizes OTR to publish the name of any participant in any notice published by OTR related to the collection of debt. OTR does not need to redact a participant's name or address in recorded documents, but it is still prohibited from disclosing the information unless permitted by OVSJG.

The bill expands the definition of child abuse and a neglected child to include sex trafficking or severe forms of trafficking in persons,³ child sex trafficking,⁴ and commercial sex acts.⁵ The bill also ensures that CFSA can provide services, if it chooses, to all abused or neglected children regardless of who perpetrated the abuse.

The Loan Repayment Assistance Program (LRAP) is a loan repayment program offered by the DC Bar Foundation that helps lawyers who work at non-profit organizations providing legal services to low-income District residents to repay their law school loans. LRAP has a public and private repayment program, with OVSJG providing the resources to the DC Bar Foundation for the public program. The bill amends the income requirements for a lawyer to participate in LRAP from an adjusted gross income less than \$75,000 to a salary, including bonus and other wages, of less than \$90,000. The bill also clarifies that when a lawyer becomes ineligible to participate in LRAP, her or his LRAP loan will be forgiven through the date of ineligibility.

In 2013, the District passed a presumptive disability law⁶ to designate that the cancer, hypertension, heart disease, respiratory disease, and infectious diseases contracted by a sworn member or employee of FEMS are presumed to be a performance of duty illness, disability, or

² Open Meetings Amendment Act of 2018, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578).

³ Trafficking Victims Protection Act of 2000, Approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A)).

⁴ Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834).

⁵ D.C. Official Code § 22-1831(4)).

⁶ Fire and Emergency Medical Services Employee Presumptive Disability Amendment Act of 2012, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code § 5-651 et seq.).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

death. These members and employees must seek treatment for these presumed disabilities through the District's Police and Fire Clinic.

The bill amends the presumptive disability law to appropriately reference the District's Merit Personnel Act⁷ when discussing the potential illnesses and disabilities for Emergency and Medical Services (EMS) employees. The current law erroneously references the District's Workers' Compensation Act⁸ that governs private sector employers.

The bill allows any application for a medical marijuana cultivation center that applied on July 19, 2015 to modify its proposed location without negatively affecting the application's status.

The bill makes conforming changes to the prerequisites for the publication of service of process to align with changes recently approved by Council in 2017.⁹ District law allows the publication of service when a defendant cannot be found because she or he is a nonresident, has been absent from the District for at least six months, or diligent efforts have failed to locate her or him.

The bill makes a few technical changes to the Domestic Violence Fatality Review Board including making the Board's representative from the Addiction Prevention and Recovery Administration, a subordinate office within the Department of Behavioral Health (DBH), more broadly a representative from DBH.

The bill clarifies that a dispositional order for any non-delinquent child in need of supervision will terminate when the child turns 18 years of age or, if the child is already 18 years of age, immediately.

The bill reaffirms that individuals sentenced under the court's sentencing alternatives authority for youth offenders¹⁰ are eligible to receive good time credits.

If an individual committed certain crimes before her or his eighteenth birthday, the Court can modify the sentence if the individual has served at least twenty years and the court determines that she or he is no longer a danger to society.¹¹ The bill reduces the incarceration time to fifteen years and requires any defendant brought back for a sentence modification hearing to be held at the Correctional Treatment Facility. The bill also allows the court to move directly to a sentencing hearing in cases where the sentence modification application is granted where now it is required to wait until it issues a written decision. If a sentence is reduced, the bill authorizes the courts to issue a sentence less than a minimum term otherwise required and prohibits the imposition of a sentence of life imprisonment without the possibility of parole. The bill also reduces the amount of time a defendant has to wait after a denied application from five years to three years.

⁷ District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 et seq.).

⁸ District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 et seq.).

⁹ Comprehensive Youth Justice Amendment Act of 2016, effective April 4, 2017 (D.C. Law 21-568; D.C. Official Code § 13-336).

¹⁰ Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903).

¹¹ An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, effective April 4, 2017 (D.C. Law 21-238; D.C. Official Code § 24-403.03).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

The bill amends the definition of an All-Terrain Vehicle (ATV) to remove a requirement that the vehicle have low-pressure tires to be considered an ATV.¹² District law bans individuals from operating, parking, stopping, or standing ATVs on public property and in public space.¹³

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

The bill authorizes OAG to issue grants up to \$360,000 to support crime reduction and violence prevention. OAG was allocated \$360,000 in fiscal year 2018¹⁴ for these grants and no additional funds are currently budgeted for this purpose. The bill's authorization to spend Litigation Support Fund resources on costs associated with this grant-making authority has no cost.

The bill's provisions altering the approval timelines of Mayoral appointees to the CIC, Advisory Commission on Sentencing, and the Board of Ethics and Government Accountability have no costs.

The bill requires all agencies that host meetings subject to the Open Meetings Act to maintain electronic and written records for at least five years. This provision does not have a cost.

The bill strengthens OTR's exemption from the Address Confidentiality Program to ensure the integrity of OTR's operations, especially as it relates to debt collection. This provision has no costs.

The changes to the definition of an abused or neglected child have no cost. The bill's consideration that the changes do not prevent CFSA from providing services to all abused or neglected children is permissive and will not impose any costs on the agency.

OVSJG is a pass-through agency for the funding of the LRAP. Changing the income and repayment parameters does not change the funding associated with the program and has no fiscal impact.

The bill ensures that the illnesses contracted by EMS employees are covered under the appropriate legal framework. These changes are technical in nature and this provision has no cost.

There are no costs associated with the bill's provision to allow medical marijuana cultivation center applicants to modify the proposed location in their applications. Some current applicants have expressed an interest in modifying their locations and this will allow the change without having a negative effect on the application.

The bill's changes to the publication of service of process for defendants who are nonresidents or whom the District has been unable to locate have no fiscal impact.

¹² Section 2 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)).

¹³ D.C. Official Code § 50-2201.04b.

¹⁴ Fiscal Year 2018 Revised Local Budget Emergency Adjustment Act of 2018, enacted July 2, 2018 (D.C. Act 22-394; 65 DCR 7151).

The Honorable Phil Mendelson

FIS: Bill 22-255, "Omnibus Public Safety and Justice Amendment Act of 2018," Draft Committee Print as shared with the Office of Revenue Analysis on November 27, 2018

The bill's changes to the Domestic Violence Fatality Review Board are technical and do not have a fiscal impact.

The bill ensures that a child who has attained 18 years of age can have her or his supervisory order immediately terminated and that any existing order will terminate when the child attains 18 years of age. This will reduce the District's supervision of these children from 21 years of age to 18 years of age. This termination age is currently in effect for new supervision orders. There are no costs associated with this provision.

The bill's provisions on good time credits and sentence modifications for youth offenders provide guidance to the U.S. Bureau of Prisons and the D.C. Superior Court, respectively, and impose no fiscal impact on the District.

Enforcement personnel and prosecutors need the low-pressure tire requirement removed so they can bring cases against violators using photographic or video evidence because they do not have the ATVs in their possession. There are no costs associated with this definition change.

ATTACHMENT F




OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Councilmember Charles Allen

FROM: Nicole L. Streeter, General Counsel 

DATE: November 27, 2018

RE: Legal sufficiency determination for Bill 22-255, the Omnibus Public Safety and Justice Amendment Act of 2018

The measure is legally and technically sufficient for Council consideration.

This bill would amend the Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010 to:

- Authorize the Attorney General to issue grants not to exceed the total amount of \$360,000 for the purposes of crime reduction and violence interruption; and
- Provide that the Litigation Support Fund may be used to pay personnel and non-personnel costs related to administering any such grants.

The bill would amend the Confirmation Act of 1978 to provide that nominations to the Corrections Information Council and the District of Columbia Sentencing Commission are subject to a 90-day period of Council review under D.C. Official Code § 1-523.01(e).

The bill would amend the Open Meetings Amendment Act of 2010 to require that:

- All meetings of public bodies, whether open or closed, be recorded by electronic means; and
- All such electronic recording be preserved for a minimum of 5 years.

The bill would amend the Address Confidentiality Act of 2018 to clarify the Office of Tax and Revenue's duties with respect to the Address Confidentiality Program.

The bill would amend the Prevention of Child Abuse and Neglect Act of 1977 to broaden the definitions of an abused child and a neglected child to include a victim of a commercial sex act, a victim of sex trafficking of children, or a victim of sex trafficking or severe forms of sex trafficking in persons.

The bill would amend the Access to Justice Initiative Establishment Act of 2010 to make changes to the District of Columbia Poverty Lawyer Loan Repayment Assistance Program.

The bill would amend the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004 to replace references to the District of Columbia Workers' Compensation Act of 1979 with references to the District of Columbia Government Comprehensive Merit Personnel Act of 1978.

The bill would amend the Legalization of Marijuana for Medical Treatment Initiative of 1999 to provide certain medical marijuana cultivation center applicants with the ability to relocate to another election ward.

The bill would amend D.C. Official Code § 16-2322 to provide that orders of the Family Division of the Superior Court of the District of Columbia, with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is over the age of 18 and for any other child when that child reaches 18 years of age.

The bill would amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes to require the court, upon application by a defendant, to reduce a term of imprisonment imposed upon a defendant for an offense committed before the defendant's 18th birthday if the defendant was sentenced pursuant to D.C. Official Code § 24-403 or § 24-403.01, or was committed pursuant to D.C. Official Code § 24-903, and has served at least 15 years in prison.

The bill would amend the District of Columbia Traffic Act, 1925 to clarify the definition of an all-terrain vehicle or ATV.

I am available if you have any questions.

ATTACHMENT G

Section 2

D.C. Official Code § 1-301.86b. Litigation Support Fund.

(a) There is established as a special fund the Litigation Support Fund (“Fund”), which shall be administered by the Office of the Attorney General in accordance with this section.

(b) Subject to the limitations of subsection (d)(3) of this section, any recoveries from claims or litigation brought by the Office of the Attorney General on behalf of the District shall be deposited into the Fund.

(c) The Fund shall be used for the purpose of supporting general litigation expenses associated with prosecuting or defending litigation cases on behalf of the District of Columbia.

(c-1) The Fund may be used to pay personnel and non-personnel costs related to administering any grant issued pursuant to the authority provided in section 108c(a).

(d)(1) Except as provided in paragraph (3) of this subsection, the money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of any fiscal year or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(3) At no time shall the balance in the Fund, including interest earned, exceed \$5 million. Any funds in excess of \$5 million shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(e) For the purposes of this section, the term “recovery” shall include funds obtained through court determinations or through the settlement of claims in which the Office of the Attorney General represents the District, but shall not include funds obtained through an administrative proceeding or funds obligated to another source by District or federal law.

New section 108c.

Sec. 108c. Authority to issue grants for crime reduction and violence interruption.

(a) The Attorney General may issue grants not to exceed the total amount of \$360,000 for the purposes of crime reduction and violence interruption.

(b) Personnel and non-personnel costs related to administering any grants issued pursuant to the authority provided in subsection (a) of this section may be paid from funds deposited into the Litigation Support Fund established in section 106b.

Section 3

D.C. Official Code § 1-523.01. Mayoral nominees.

(a) The Mayor shall nominate persons to serve as subordinate agency heads in the Executive Service established by subchapter X-A of Chapter 6 of this title [§ 1-610.51 *et seq.*], subject to the advice and consent of the Council, within 180 calendar days of the date of the establishment of the subordinate agency or the date of a vacancy. A nomination shall be submitted to the Council for a 90-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination by resolution within this 90-day review period, the nomination shall be deemed confirmed.

(1) If the Mayor fails to nominate a person within 180 days of the establishment of the subordinate agency vacancy or the date of vacancy, no District funds may be expended to compensate any person serving in the position.

(2) The Mayor may designate an acting subordinate agency head, but this designation shall not suspend the requirements of this section, or the provisions of § 1-610.59(a).

(b) The Mayor shall not appoint board or commission members to serve in a position that the law requires to be filled by Mayoral appointment with the advice and consent of the Council.

(c) No person shall serve in a hold-over capacity for longer than 180 days after the expiration of the term to which he or she was appointed, in a position that is required by law to be filled by Mayoral appointment with the advice and consent of the Council including to positions on boards and commissions.

(d) The provisions of this section shall not be affected by any provision in subchapter VI of Chapter 3 of this title [§ 1-315.01 *et seq.*].

(e) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 90-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. If the Council does not approve by resolution within the 90-day period a nomination to these boards or commissions, the nomination shall be deemed disapproved.

- (1) The Alcoholic Beverage Control Board, established by § 25-104(a);
- (2) The District of Columbia Board of Library Trustees, established by § 39-104;
- (3) The Board of Trustees of the University of the District of Columbia, established by § 38-1202.01;
- (4) The Board of Zoning Adjustment, established by § 6-641.07;
- (5) The Police Complaints Board, established by § 5-1104;
- (6) The Contract Appeals Board, established by § 2-360.01;
- (7) The District of Columbia Board of Elections and Ethics [Board of Elections], established by § 1-1001.03;
- (8) The Commission on Human Rights, established by § 2-1404.01;
- (9) Repealed.
- (10) The District of Columbia Housing Finance Agency Board of Directors, established by § 42-2702.02;
- (11) Repealed.

- (12) Repealed.
- (13) The Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031) in accordance with § 6-1103;
- (14) The Metropolitan Washington Airports Authority Board of Directors, established by § 9-1006(e);
- (15) Repealed;
- (16) The Office of Employee Appeals, established by § 1-606.01;
- (17) The Public Employee Relations Board, established by § 1-605.01;
- (18) The Public Service Commission, established by § 34-801;
- (19) The Rental Housing Commission, established by § 42-3502.01;
- (20) The Washington Convention and Sports Authority Board of Directors, established by § 10-1202.05;
- (21) The Water and Sewer Authority Board of Directors, established by § 34-2202.04;
- (22) The Zoning Commission for the District of Columbia, established by § 6-621.01;
- (23) Repealed.
- (24) Repealed.
- (25) Repealed;
- (26) Repealed;
- (27) The Board of Commissioners of the District of Columbia Housing Authority, established by § 6-211;
- (28) Repealed;
- (29) Homeland Security Commission established by § 7-2271.02;
- (30) Commission on Fashion Arts and Events, established by § 3-651;
- (31) The Board of Ethics and Government Accountability, established by § 1-1162.02; ~~provided, that a nomination to the Board of Ethics and Government Accountability shall be submitted to the Council for a 45-day period of review, pursuant to § 1-1162.03(b)(1);~~
- (32) Commission on the Arts and Humanities, established by § 39-203;
- (33) The Board of Directors of the Washington Metrorail Safety Commission established by Article III.B of § 9-1109.11;
- (34) The Green Finance Authority; ~~and~~
- (35) Not funded;
- (36) The Corrections Information Council, established by section 11201a of the National Capital Revitalization and Self-Government Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01); and
- (37) The District of Columbia Sentencing Commission, established by section 2(a) of the Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-101(a)).

(f) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 45-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. The Council shall be deemed to have approved a nomination under this subsection if during the 45-day period, no member introduces a resolution disapproving

the nomination. If a member introduces a resolution disapproving the nomination within the 45-day period, the Council shall have an additional 45 days, excluding days of Council recess, to disapprove the nomination by resolution, or it will be deemed approved.

- (1) The Apprenticeship Council, established by § 32-1402;
- (2) The Armory Board, established by § 3-302;
- (3) Repealed;
- (4) The Board of Dentistry, established by § 3-1202.01;
- (5) The Board of Medicine, established by § 3-1202.03;
- (6) The Board of Nursing, established by § 3-1202.04;
- (7) The Board of Nursing Home Administration, established by § 3-1202.05;
- (8) The Board of Psychology, established by § 3-1202.11;
- (9) Repealed.
- (10) The Child Support Guideline Commission, established by § 16-916.02;
- (11) Repealed;
- (12) The District of Columbia Boxing and Wrestling Commission, established by § 3-604;
- (13) The Multistate Tax Commission, established by § 47-441;
- (14) The Public Access Corporation Board of Directors, established by § 34-1253.02;
- (15) The Board of Real Estate, established by § 47-2853.06(h);
- (16) Repealed;
- (17) The Board of Dietetics and Nutrition, established by § 3-1202.02;
- (18) The Board of Occupational Therapy, established by § 3-1202.06;
- (19) The Board of Optometry, established by § 3-1202.07;
- (20) The Board of Pharmacy, established by § 3-1202.08;
- (21) The Board of Physical Therapy, established by § 3-1202.09;
- (22) The Board of Podiatry, established by § 3-1202.10;
- (23) The Board of Social Work, established by § 3-1202.12;
- (24) The Board of Professional Counseling, established by § 3-1202.13;
- (25) The Board of Respiratory Care, established by § 3-1202.14;
- (26) The Board of Massage Therapy, established by § 3-1202.15;
- (27) The Board of Chiropractic, established by § 3-1202.16;
- (28) The Statewide Health Coordinating Council, established by § 44-403;
- (29) The Board of Barber and Cosmetology, established by § 47-2853.06(c);
- (30) The Board of Real Estate Appraisers, established by § 47-2853.06(g);
- (31) Repealed;
- (32) The Board of Funeral Directors, established by § 47-2853.06(f);
- (33) Repealed;
- (34) Repealed;
- (35) The Board of Veterinary Examiners for the District of Columbia, established by § 3-505 [repealed];
- (36) Reserved;

- (37) The Board of Architecture, Interior Design, and Landscape Architecture, established by § 47-2853.06(a);
- (38) The Board of Accountancy, established by § 47-2853.06(b);
- (39) The Board of Industrial Trades, established by § 47-2853.06(d);
- (40) The Board of Professional Engineering, established by § 47-2853.06(e);
- (41) The Housing and Community Development Reform Commission, established by § 6-1032;
- (42) The Commission on Asian and Pacific Islander Community Development, established by § 2-1373;
- (43) The Board of Marriage and Family Therapy, established by § 3-1202.17;
- (44) Repealed;
- (45) Repealed;
- (46) The Motor Vehicle Theft Prevention Commission, established by § 3-1352;
- (47) The Commission on African Affairs, established by § 2-1393;
- (48) The Science Advisory Board to the Department of Forensic Sciences, established by § 5-1501.11;
- (49) The Commission on African-American Affairs, established by § 3-1441;
- (50) Repealed;
- (51) Other Post-Employment Benefits Fund Advisory Committee, established by § 1-621.51;
- (52) The Commission on Fathers, Men, and Boys, established pursuant to § 3-731;
- (53) The Commission on Health Equity, established by section 5043 of the Commission on Health Equity Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01);
- (54) Youth Apprenticeship Advisory Committee, established by § 32-1412.01;
- (55) The District of Columbia State Athletics Commission, established pursuant to Chapter 26A-i of Title 38;
- (56) The Commission on Out of School Time Grants and Youth Outcomes, established pursuant to subchapter III-B of Chapter 15 of Title 2;
- (57) The Adult Career Pathways Task Force, established by § 32-1661; and
- (58) The Interstate Medical Licensure Compact Commission, established by subchapter I of Chapter 12B of Title 3-;
- (59) Not Funded-;
- (60) The Maternal Morality Review Committee, established by § 7-761.02;
- (61) The Child Fatality Review Committee, established by § 4-1371.03;
- (62) The Violence Fatality Review Committee, established by § 5-1431.01;
- (63) The Domestic Violence Fatality Review Board, established by § 16-1052; and
- (64) The Advisory Committee on Street Harassment, established by § 7-2422.

(g) Notwithstanding any other provision of law, the Mayor shall directly appoint members to boards and commissions, without the advice and consent of the Council, to the boards and commissions not contained in subsections (e) and (f) of this section.

(h) This section shall not apply to positions on boards and commissions that are designated by law for the Mayor, his or her designee, or another member of the executive branch or his or her designee.

Section 4

D.C. Official Code § 2–578. Record of meetings.

(a) All meetings of public bodies, whether open or closed, shall be recorded by electronic means, and the recording shall be preserved for a minimum of 5 years; provided, that if a recording is not feasible, detailed minutes of the meeting shall be ~~kept~~ taken and preserved for a minimum of 5 years.

(b) Copies of records shall be made available for public inspection according to the following schedule; provided, that a record, or a portion of a record, may be withheld under the standard established for closed meetings pursuant to § 2-575(b):

(1) A copy of the minutes of a meeting shall be made available for public inspection as soon as practicable, but no later than 3 business days after the meeting.

(2) A copy of the full record, including any recording or transcript, shall be made available for public inspection as soon as practicable, but no later than 7 business days after the meeting.

Section 5

D.C. Official Code § 3–102. Membership of the Commission.

(a) The Commission shall consist of 12 voting members and 5 nonvoting members as follows:

(1) The voting members of the Commission shall consist of the following:

(A) Three judges of the Superior Court of the District of Columbia, appointed by the Chief Judge of the Superior Court;

(B) Repealed;

(C) The United States Attorney for the District of Columbia or his or her designee;

(D) The Director of the D.C. Public Defender Service or his or her designee;

(E) The Attorney General for the District of Columbia or his or her designee;

(F) The Director of the Court Services and Offender Supervision Agency for the District of Columbia or his or her designee;

(G) Two members of the District of Columbia Bar, one who specializes in the private practice of criminal defense in the District of Columbia, and one who does not specialize in the practice of criminal law, appointed by the Chief Judge of the Superior Court in consultation with the President of the District of Columbia Bar;

(H) A professional from an established organization devoted to research and analysis of sentencing issues and policies, appointed by the Chief Judge of the Superior Court of the District of Columbia; and

(I) Two citizens of the District of Columbia, one of whom is nominated by the Mayor subject to confirmation by the Council, and the other who is appointed by the Council.

(J) Repealed.

(2) The non-voting members of the Commission shall consist of the following:

(A) The Director of the District of Columbia Department of Corrections or his or her designee;

(B) The Chief of the Metropolitan Police Department or his or her designee;

(C) The Director of the United States Bureau of Prisons or his or her designee;

(D) The Chairperson of the United States Parole Commission or his or her designee; and

(E) The chairperson of the Council committee that has oversight of the Commission within its purview.

(b) The appointment of members designated by subsection (a)(1)(G), (H), (I), and (J) of this section shall be made in accordance with the following provisions:

(1) Each member shall be appointed for a term of 3 years, and shall continue to serve during that time as long as the member remains eligible for the appointment.

(2) A member may be reappointed.

(3) A person appointed to fill a vacancy occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

(4) A member may be removed only for incompetence, neglect of duty, or misconduct.

(b-1) The Mayor shall submit a nomination for membership pursuant to section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)).

(c) The voting members of the Commission shall elect a Chairperson.

(d) Members of the Commission shall serve without compensation, except that the citizen members of the Commission may be compensated at an amount not to exceed \$15.00 each day or part thereof for reasonable expenses incurred in the performance of their official duties.

Section 6

D.C. Official Code § 4-555.03. Program applications and certification of participants.

(a) OVSJG shall:

(1) Establish a training program for a person to complete before the person may be designated as an application assistant; and

(2) Designate application assistants to assist an applicant or an applicant's representative in submitting an application to the Program.

(b) A person may be designated as an application assistant if the person successfully completes the training program established pursuant to subsection (a)(1) of this section and provides:

- (1) Counseling, referral, or other services to victims of a covered offense; or
- (2) Services at an organization that focuses on reproductive healthcare.

(c) To apply to participate in the Program, an applicant or an applicant's representative shall meet with an application assistant to fill out an application together.

(d) The application shall be on a form prescribed by ~~OVSJG~~ OVSJG and contain the following:

- (1) The applicant's name;
 - (2) Evidence that the applicant is a victim of a covered offense or is a covered employee, including at least one of the following:
 - (A) A sworn affidavit by the applicant or the applicant's representative, stating that the applicant:
 - (i) Is a victim of a covered offense or is a covered employee; and
 - (ii) Fears for her or his safety;
 - (B) Law enforcement agency or other District agency records or files;
 - (C) An order of a tribunal;
 - (D) If the applicant is alleged to be a victim of domestic violence, documentation from a domestic violence program or facility, including a shelter or safe house;
 - (E) If the applicant is alleged to be a victim of a sexual offense, documentation from a sexual assault program or facility;
 - (F) If the applicant is alleged to be a victim of human trafficking, documentation from a human trafficking program or facility, including a shelter or safe house;
 - (G) If the applicant is alleged to be a victim of stalking, documentation from a program or facility providing services for victims of stalking; or
 - (H) Documentation from a medical professional from whom the applicant has sought assistance in dealing with the alleged covered offense;
 - (3) A statement by the applicant or the applicant's representative that disclosure of the applicant's actual address would endanger the applicant's safety;
 - (4) The actual address that the applicant is seeking to have protected by OVSJG;
 - (5) A statement as to whether there are any existing orders or pending actions of a tribunal involving the applicant, and if so, describing those orders or actions;
 - (6) A statement designating the Director of OVSJG, or the Director's designee, as an agent for purposes of service of process and receiving mail;
 - (7) If applicable, the name and contact information of the applicant's representative;
- and
- (8) A statement by the applicant or the applicant's representative, under penalty of perjury, that to the best of the applicant's or the applicant's representative's knowledge, the information contained in the application is true.

D.C. Official Code § 4–555.05. Address use by District agencies.

(a) Notwithstanding any other law, except as provided in this section, a participant or the participant's representative shall not be required to provide the participant's actual address for any purpose for which a District agency requires or requests a residential, work, or school address.

(b) Only a participant's actual address shall be used as part of a registration required by Chapter 40 of Title 22.

(c)(1) After a participant who is eligible to vote is certified to participate in the Program, unless the participant opts out, OVSJG shall send the participant's actual address and a copy of the participant's Program authorization card to the District of Columbia Board of Elections ("Board"), which the Board shall maintain.

(2) If a participant decides to vote, the participant shall vote by absentee ballot.

(3) If a participant decides to sign a petition to be filed with the Board, the participant may use her or his substitute address to sign the petition.

(d)(1) Only a participant's actual address shall be used on any document filed with the Office of Tax and Revenue.

(2) The Office of Tax and Revenue shall not index by a participant's name in any online database of the agency relating to:

(A) Assessment and tax information; and

(B) All recorded documents; provided, that a court order, a judgment, a lien, or any document related to debt collection that is not a security interest instrument, may be indexed by the participant's name.

(3) The participant's name may be included in any notice or index published by the Office of Tax and Revenue for the collection of debt, including taxes.

(4) This subsection shall not require the Office of Tax and Revenue to redact or otherwise erase a participant's name or address in any document or electronic record in its online database.

(5) Except as provided in this section, the Office of Tax and Revenue shall not disclose a participant's actual address, unless OVSJG permits disclosure pursuant to the rules issued under section 112.

(e)(1) Upon written request by a supervisor at the rank of sergeant or above of the Metropolitan Police Department ("MPD"), OVSJG shall provide a participant's actual address to MPD for law enforcement purposes only.

(2) MPD shall not publish a participant's actual address pursuant to § 5-113.06.

(f)(1) If a participant or a participant's representative is or becomes aware that a District agency has made public the participant's actual address, the participant or the participant's representative may submit a written request, along with a copy of the participant's Program authorization card, to the District agency, asking the District agency to remove any publicly accessible references to the participant's actual address.

(2) Upon receipt of a request pursuant to paragraph (1) of this subsection, the District agency shall remove publicly accessible references to the participant's actual address, including any references on the District agency's website, within 10 business days of receiving the request.

(3) This subsection shall not apply to the Office of Tax and Revenue.

D.C. Official Code § 4-555.08. Penalties.

(a) ~~Notwithstanding any other law, e~~Except as provided by this subchapter, no person shall intentionally obtain from a District agency, other than the Office of Tax and Revenue, or disclose a participant's actual address knowing that the participant is participating in the Program, unless required by existing law or by OVSJG pursuant to the rules issued under section 112.

(b) A person violating subsection (a) of this section shall be subject to a civil fine of not more than \$10,000.

Section 7

D.C. Official Code § 4-1301.02. Definitions.

For the purposes of this subchapter:

(1)(A) "Abused", when used in reference to a child, means shall have the same meaning as is provided in § 16-2301(23);

(i) Abused, as that term is defined in D.C. Official Code § 16-2301(23); or

(ii) Sexual abuse, which shall include:

(I) Sex trafficking or severe forms of trafficking in persons, as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A));

(II) A commercial sex act, as that term is defined in section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)); or

(III) Sex trafficking of children, as described in section 104 of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834).

(B) Nothing in this paragraph shall be construed as preventing or intending to prevent:

(i) Sex trafficking, severe forms of trafficking in persons, a commercial sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes of D.C. Official Code § 16-2301(32); or

(ii) The Agency from offering or providing services under this act to abused or neglected children, including where the child was not abused or neglected by a parent, guardian, or custodian.

[...]

(15A) "Neglected child" ~~shall have the same meaning as is provided in § 16-2301(9).~~
means a child who is a:

(A) Neglected child, as that term is defined in D.C. Official Code § 16-2301(9);

(B) Victim of sex trafficking or severe forms of trafficking in persons, as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A));

(C) Victim of a commercial sex act, as that term is defined in section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)); or

(D) Victim of sex trafficking of children, as described in section 104 of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834).

Section 8

D.C. Official Code § 4-1321.02. Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in ~~§ 16-2301(9)~~ section 102(15A) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02(15A)), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) A person specified in subsection (b) of this section shall report to the Child and Family Services Agency any child who is age 5 through 13 years and who has 10 or more days of unexcused absences within a school year, as that term is defined in § 38-201(4).

(a-2) Expired.

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in § 14-311(2), domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, [or] humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by Chapter 30 of Title 22 [§ 22-3001 *et seq.*]; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to Chapter 12 of Title 3 [§ 3-1201.01 *et seq.*], who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

(g) A person who violates this section shall not be prosecuted under subchapter II-A of Chapter 30 of Title 22 [§ 22-3020.51 *et seq.*].

(h) The Metropolitan Police Department shall immediately report or have a report made to the Child and Family Services Agency of any knowledge, information, or suspicion of a child engaging in or offering to engage in a sexual act, as defined in § 22-3001(8), or sexual contact, as defined in § 22-3001(9), in return for receiving anything of value.

Section 9

D.C. Official Code § 4-1701.01. Definitions.

For the purposes of this chapter, the term:

(1) “Adequate notice” means written notice of termination from eligible employment provided within 15 days of termination and separate written confirmation by the provider of eligible employment.

~~(2) “Adjusted gross income” shall have the same meaning as provided in § 47-1803.02(b).~~

[...]

D.C. Official Code § 4-1704.03. LRAP; participation eligibility.

(a) To be eligible to participate in the LRAP, an applicant shall, at the time of application and throughout participation in the LRAP:

(1) Hold, or actively plan to secure, eligible employment; provided, that a participant shall hold eligible employment before any payments may be disbursed;

(2) Be a resident of the District of Columbia;

(3) Be a lawyer;

(4) Have ~~an annual adjusted gross income of less than \$75,000, subject to a 3% annual increase beginning on October 1, 2013~~ a current salary (including bonuses and other wages) of less than \$90,000;

(5) Exhaust all other available avenues for loan repayment assistance, including through participation in any available undergraduate or law school debt-forgiveness programs;

(6) Have no current service obligation from scholarships;

(7) Submit a timely and completed application;

(8) Be in satisfactory repayment status on all eligible debt; and

(9) Execute a release to allow the Administrator access to records, credit information, and information from lenders necessary to verify eligibility of debt and to determine loan repayments.

(b) A law student attending the David A. Clarke School of Law at the University of the District of Columbia who is in his or her final year of school may apply and be approved for loan repayment assistance if the applicant demonstrates that he or she will meet all eligibility requirements by the time of the first award disbursement.

D.C. Official Code § 4-1704.04. LRAP; award of loans.

(a) The Administrator shall award loans to participants during the period of service obligation in accordance with § 4-1704.06. Subject to the availability of funds and within the limits established by subsection (c) of this section, participants shall be granted loans sufficient to repay all eligible debt.

(b) If the needs of all participants exceed the financing available in any fiscal year, preference shall be given to participants who:

(1) Are graduates of accredited public schools of law in the District of Columbia;

(2) Have completed no less than 2 prior service obligations in the LRAP;

(3) Have graduated from an accredited school of law within the last 3 years; or

(4) Have a high debt to ~~adjusted gross~~ income ratio as compared to other participants.

(c) Participants in the LRAP shall not receive loan repayment assistance under the LRAP in excess of \$1,000 for a single month; except, that the Office of Victim Services and Justice Grants may by rulemaking increase the award limits in this subsection to reflect changes in reasonable education expenses.

D.C. Official Code § 4-1704.05. LRAP; participant obligations.

(a) A participant shall:

(1) Maintain full-time employment and eligible employment for each year of the service obligation;

(2) Sign a promissory note setting forth his or her obligation to the LRAP to repay any assistance loans that are not subsequently forgiven pursuant to § 4-1704.02(b) because of a failure to sustain eligible employment or other noncompliance with the eligibility requirements set forth in § 4-1704.03.

(3) Authorize the Administrator to verify his or her eligible employment, current salary (including bonuses and other wages), and other sources of income, and ~~annual-adjusted gross income~~ at least semiannually during participation in the LRAP;

(4) Timely notify the Administrator of any change in status that would make the participant ineligible for an award; and

(5) Be responsible for:

(A) Negotiating with each lending institution the terms and conditions of eligible debt repayments; and

(B) Any penalties associated with early repayment.

(b) Except as provided in subsections (c) and (d) of this section, participants who fail to fulfill the required service obligation shall repay any loan disbursed, in accordance with the terms of the promissory note required by subsection (a)(2) of this section and regulations promulgated pursuant to § 4-1704.07.

(c) For the purposes of this chapter, a participant who provides adequate notice to the Administrator of involuntary termination from eligible employment shall be forgiven for the loan through the date of the involuntary termination from eligible employment. The participant shall be required to repay the loan from the date of involuntary termination from eligible employment through the end of the calendar year.

(d) For the purposes of this chapter, a participant who ~~provides adequate notice to the Administrator of voluntary withdrawal from eligible employment~~ becomes ineligible to participate in the LRAP shall be forgiven for the loan through the date of the ~~voluntary withdrawal from eligible employment~~ ineligibility if the participant has satisfied the obligations under § 4-1704.03 and this section for 3 or more years. The participant shall be required to repay the loan from the date of voluntary withdrawal from eligible employment through the end of the calendar year.

Section 10

D.C. Official Code § 5-652. Presumption as to disability or death from heart disease, hypertension, or respiratory disease.

(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by subchapter I of this chapter, subchapter I of Chapter 7 of this title, § 5-708, §§ 5-711, 5-715, 5-702, 5-705, and 5-719, § 5-722, §§ 5-731, 5-732, and 5-733, § 5-741, § 5-742, § 5-743, § 5-744, §§ 5-745 and 5-746, § 5-747, § 5-761, and § 5-762, unless such presumption is overcome

by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The member has been diagnosed with heart disease, hypertension, or respiratory disease;

(2) The heart disease, hypertension, or respiratory disease results in the member's inability to perform the full range of duties or in death;

(3) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

(4) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by ~~Chapter 15 of Title 32~~ the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The EMS employee has been diagnosed with heart disease, hypertension, or respiratory disease;

(2) The heart disease, hypertension, or respiratory disease results in the EMS employee's ~~disability, as defined by § 32-1501(8)~~ injury, as defined by section 2301(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01(5)), or in death;

(3) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

(4) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

D.C. Official Code § 5-653. Presumption as to disability or death from cancer.

(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by subchapter I of this chapter, subchapter I of Chapter 7 of this title, § 5-708, §§ 5-711, 5-715, 5-702, 5-705, and 5-719, § 5-722, §§ 5-731, 5-732, and 5-733, § 5-741, § 5-742, § 5-743, § 5-744, §§ 5-745 and 5-746, § 5-747, § 5-761, and § 5-762, unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The member has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or respiratory cancer, and that member has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

(2) The member has completed at least 10 years of service with the Department;

(3) The leukemia or cancer results in the members' inability to perform the full range of duties or in death;

(4) The member has undergone a pre-employment physical examination and the member was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

(b) An EMS employee shall be presumed to have an occupational disease suffered in the line of duty that is covered by ~~Chapter 15 of Title 32~~ the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 et seq.), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The EMS employee has been diagnosed with leukemia or breast, ovarian, pancreatic, prostate, rectal, testicular, or respiratory cancer, and that EMS employee has been in contact with or exposed to a toxic substance while in the line of duty that is associated with an increased risk of leukemia or cancer;

(2) The EMS employee has completed at least 10 years of service with the Department;

(3) The leukemia or cancer results in the EMS employee's ~~disability, as defined by § 32-1501(8)~~ injury, as defined by section 2301(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01(5)), or in death;

(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

D.C. Official Code § 5-654. Presumption as to disability or death from infectious disease.

(a) A member shall be presumed to have a performance-of-duty injury or illness that is covered by subchapter I of this chapter, subchapter I of Chapter 7 of this title, § 5-708, §§ 5-711, 5-715, 5-702, 5-705, and 5-719, § 5-722, §§ 5-731, 5-732, and 5-733, § 5-741, § 5-742, § 5-743, § 5-744, §§ 5-745 and 5-746, § 5-747, § 5-761, and § 5-762, unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The member has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus ("HIV");

(2) The member has had a documented exposure to blood or bodily fluids during the performance of job duties;

(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the member's inability to perform the full range of duties or in death;

(4) The member has undergone a pre-employment physical examination and the was found, at the time of the examination, to be free of the performance-of-duty injury or illness underlying the presumption provided for in this subsection; and

(5) The member, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

(b) An EMS employee shall be presumed to have an occupation disease suffered in the line of duty that is covered by ~~Chapter 15 of Title 32~~ the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 et seq.), unless such presumption is overcome by a preponderance of evidence to the contrary or the member is disqualified from the presumption pursuant to § 5-655, if:

(1) The EMS employee has been diagnosed with hepatitis, meningococcal meningitis, tuberculosis, or human immunodeficiency virus ("HIV");

(2) The EMS employee has had a documented exposure to blood or bodily fluids during the performance of job duties;

(3) The hepatitis, meningococcal meningitis, tuberculosis, or HIV results in the EMS employee's ~~disability, as defined by § 32-1501(8)~~ injury, as defined by section 2301(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01(5)), or in death;

(4) The EMS employee has undergone a pre-employment physical examination and the EMS employee was found, at the time of the examination, to be free of the occupational disease underlying the presumption provided for in this subsection; and

(5) The EMS employee, upon request of the Director, submits to a physical examination conducted by physicians selected by the Director.

Section 11

D.C. Official § 7-1671.06. Dispensaries and cultivation centers.

(a) Notwithstanding any other District law, a dispensary may possess medical marijuana for the purpose of dispensing the medical marijuana to a qualifying patient or caregiver and may manufacture, purchase, possess, distribute, and use paraphernalia, in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(b) Notwithstanding any other District law, a cultivation center may cultivate and possess medical marijuana for the purpose of distribution to a dispensary and may manufacture, purchase, possess, and use paraphernalia in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(b-1) Notwithstanding any other District law, a testing laboratory may possess medical marijuana for the purpose of testing its contents, in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(c) A dispensary may dispense medical marijuana and distribute paraphernalia to a qualifying patient or the qualifying patient's caregiver, and a qualifying patient or the qualifying

patient's caregiver may obtain medical marijuana and paraphernalia from a dispensary, only if the qualifying patient is registered to receive medical marijuana from that dispensary.

(d)(1) Each dispensary, cultivation center, and testing laboratory shall be registered with the Mayor prior to manufacturing, cultivating, dispensing, possessing, testing, or distributing medical marijuana, or manufacturing, possessing, using, or distributing paraphernalia.

(2)(A) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana; provided further, that no more than 2 dispensaries shall be registered to operate within an election ward established by the Council in § 1-1041.03.

(B) The prohibition of no more than 2 dispensaries being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of December 13, 2013.

(C)(i) No more than one dispensary may be registered to operate in any election ward in which 5 or more cultivation centers have been registered to operate.

(ii) The prohibition of no more than one dispensary being registered to operate within an election ward in which 5 or more cultivation centers have been registered to operate set forth in sub-subparagraph (i) of this subparagraph shall apply to applications pending as of December 13, 2013.

(3)(A) The number of cultivation centers and testing laboratories that may be registered to operate in the District shall be determined by rulemaking; provided, that the combined total number of cultivation centers and testing laboratories registered to operate within an election ward established by the Council in § 1-1041.03, shall not exceed 6.

(B) The prohibition of no more than 6 cultivation centers being registered to operate within an election ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of Dec. 13, 2013.

(C) Any applicant that submitted an application on July 19, 2015, for a registration to operate a cultivation center shall be allowed to modify the location of the cultivation center on its application without negatively affecting the current status of the application.

(4) The Mayor may approve the holder of a cultivation center registration that also owns, or has a valid lease for, real property adjacent to its existing cultivation center to physically expand the registered cultivation center into that adjacent real property for the purpose of increasing production of medical marijuana.

(5)(A) Any application for registration of a dispensary, cultivation center, or testing laboratory submitted by a certified business enterprise pursuant to this subsection after June 28, 2017, shall be awarded a preference equal to 20 points or 7.5% of the available points, whichever is more.

(B) For the purposes of this paragraph, the term "certified business enterprise" shall have the same meaning as provided in § 2-218.02(1D).

(e)(1) A dispensary may not dispense more than 2 ounces of medical marijuana in a 30-day period to a qualifying patient, either directly or through the qualifying patient's caregiver; provided, that the Mayor, through rulemaking, may increase the quantity of medical marijuana that may be dispensed to up to 4 ounces.

(2) A cultivation center shall not possess more than 1,000 living marijuana plants at any time.

(3) It shall be unlawful for a dispensary to dispense or possess more than the quantity of medical marijuana needed to support the number of qualifying patients or caregivers registered to receive medical marijuana at that dispensary, as determined by the Mayor pursuant to rules issued under § 7-1671.13; provided, that the Mayor may allow a dispensary to possess a higher quantity of medical marijuana in anticipation of additional qualifying patients or caregivers registering.

(f) No marijuana or paraphernalia at a dispensary, cultivation center, or testing laboratory shall be visible from any public or other property.

(g) A dispensary, cultivation center, or testing laboratory shall not locate within any residential district or within 300 feet of a preschool, primary or secondary school, or recreation center.

(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to § 2-1217.73, and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194).

(2) Any applicant that had an application pending as of June 20, 2012, for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection, shall be allowed to modify the application within 180 days of May 1, 2013, without negatively affecting the current status of the application.

(g-2) A dispensary, cultivation center, or testing laboratory may be permitted to relocate within an election ward upon approval from the Mayor.

(g-3) A dispensary, cultivation center, or testing laboratory may be permitted to change ownership or controlling interest upon approval from the Mayor.

(h) Each dispensary, cultivation center, and testing laboratory" shall:

(1) Be either a for-profit or nonprofit corporation incorporated within the District;

(2) Implement a security plan to prevent the theft or diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only by authorized persons; and

(3) Ensure that all of its employees receive training on compliance with District law, medical marijuana use, security, and theft prevention.

(i) Each dispensary shall regularly distribute to all qualifying patients and caregivers the educational materials regarding potential harmful drug interactions developed as part of the Program.

(j) No director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory who has access to the medical marijuana at the dispensary, cultivation center, or testing laboratory shall have a felony conviction; provided, that the Mayor shall not disqualify any of the forgoing individuals solely for a felony conviction of possession with intent to distribute marijuana that occurred before the July 17, 2014.

(k) A person found to have violated any provision in this chapter shall not be a director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing labor, and the registration identification card of the person shall be immediately revoked and the

registration of the dispensary, cultivation center, or testing labor shall be suspended until the person is no longer a director, officer, member, incorporator, agent, or employee of the dispensary, cultivation center, or testing labor.

Section 12

D.C. Official Code § 13–338. Prerequisites for order of publication.

An order for the substitution of publication for personal service may not be made until:

- (1) ~~a~~A summons for the defendant has been issued and returned “~~N~~not to be found,”; and
- (2) The plaintiff proves by affidavit to the satisfaction of the court:
 - (A) ~~†The nonresidence of the defendant or his or her absence for at least six~~ 6 months is proved by affidavit to the satisfaction of the court; or
 - (B) Diligent efforts to find the defendant or that the defendant seeks to avoid service of process by concealment.

Section 13

D.C. Official Code § 16–1053. Composition of the Board; procedural requirements.

(a) The Mayor shall appoint one representative from each of the following District agencies:

- (1) Metropolitan Police Department;
- (2) Office of the Chief Medical Examiner;
- (3) Office of the ~~Corporation Counsel~~ Attorney General;
- (4) Department of Corrections;
- (5) Fire and Emergency Medical Services Department;
- (6) ~~Addiction Prevention and Recovery Administration~~ Department of Behavioral

Health;

- (7) Department of Health;
- (8) Child and Family Services Agency; and
- (9) Mayor’s Commission on Violence Against Women.

(b) The Mayor shall appoint, or request the designation of, members from federal, judicial, and private agencies or entities with expertise in domestic violence, to include one representative from each of the following:

- (1) Superior Court of the District of Columbia;
- (2) Office of the ~~Unites~~ United States Attorney for the District of Columbia;
- (3) District of Columbia hospitals;
- (4) University legal clinics;
- (5) Domestic violence shelters; and
- (6) Domestic violence advocacy organizations.

(c) The Mayor shall additionally appoint 8 community representatives, none of whom shall be employees of the District, in accordance with [§ 1-523.01(f)].

(d) Governmental appointees shall serve at the will of the Mayor, or of the federal or judicial body designating their availability for appointment. Community representatives shall serve for 3-year terms.

(e) Vacancies in membership shall be filled in the same manner in which the original appointment was made.

(f) The Board shall select a ~~Chairman~~ Chairperson according to rules set forth by the Board.

(g) The Board shall establish quorum and other procedural requirements as it considers necessary.

Section 14

D.C. Official Code § 16-2322. Limitation of time on dispositional orders.

(a)(1) A dispositional order vesting legal custody of a neglected child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(2) An order vesting legal custody of a child in an individual other than his or her parent shall remain in force for two years unless sooner terminated by order of the Division.

(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

(4) A dispositional order vesting legal custody of a child adjudicated delinquent in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the youth's twenty-first birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(5) Subject to subsection (f) of this section, a dispositional order vesting legal custody of a child adjudicated in need of supervision in a department, agency, or institution shall remain in force for an indeterminate period not to exceed the child's 18th birthday. Unless the order sets a minimum period for commitment of the child, or specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

(b) A dispositional order vesting legal custody of a neglected child in an agency or institution may be extended for additional periods of one year upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that the extension is necessary to safeguard the welfare of the child.

(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services or the ~~Corporation Counsel~~ Attorney General, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a)(1) or (3), shall promptly be reported in writing to the Division.

(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his or her right to move for the sealing of his or her records as provided in section 16-2335.

(f)(1) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when the child reaches twenty-one years of age, except that orders under this subchapter in force with respect to a child adjudicated in need of supervision, but not delinquent, terminate when the child reaches 18 years of age.

(2) Orders in force as of the effective date of the Omnibus Public Safety and Justice Amendment Act of 2018, as approved by the Committee on the Judiciary and Public Safety on November 28, 2018 (Committee print of Bill 22-255), with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is 18 years of age or older and, for any other child, when that child reaches 18 years of age.”

Section 15

D.C. Official Code § 24–101.01. ~~District of Columbia~~ Corrections Information Council.

(a) There is established a ~~District of Columbia~~ Corrections Information Council (“CIC”). The CIC shall be responsible for the inspection of all facilities housing District of Columbia inmates who are under the jurisdiction of either the Bureau of Prisons or the Department of Corrections, and for the monitoring of the conditions and treatment of District of Columbia inmates incarcerated in those facilities.

(b)(1) The CIC shall consist of a Corrections Information Council Governing Board (“Board”) as well as an Executive Director and subordinate personnel.

(2)(A) The Board shall be composed of 5 members, 3 of whom shall be appointed by the Mayor ~~with the advice and consent of the Council pursuant to section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e),~~ and 2 of whom shall be appointed by the Council.

(B) Of the members first appointed, the Mayor shall appoint one member for a one-year term. The other mayoral appointee and the Council appointee shall serve 2-year terms. Thereafter, members shall be appointed for terms of 2 years. A Board member may be reappointed. A person appointed to fill a vacancy on the Board occurring prior to the expiration of a term shall serve for the remainder of the term or until a successor has been appointed.

(C) The Mayor shall designate the chairperson of the Board.

(D) All members shall be residents of the District of Columbia; provided, that one of the Council appointments may be a non-resident of the District.

(E) All Board members shall serve without compensation.

[...]

Section 16

D.C. Official Code § 24-403.01. Sentencing, supervised release, and good time credit for felonies committed on or after August 5, 2000.

(a) For any felony committed on or after August 5, 2000, the court shall impose a sentence that:

- (1) Reflects the seriousness of the offense and the criminal history of the offender;
- (2) Provides for just punishment and affords adequate deterrence to potential criminal conduct of the offender and others; and
- (3) Provides the offender with needed educational or vocational training, medical care, and other correctional treatment.

(b)(1) If an offender is sentenced to imprisonment, or to commitment pursuant to § 24-903, under this section, the court shall impose a period of supervision ("supervised release") to follow release from the imprisonment or commitment.

(2) If the court imposes a sentence of more than one year, the court shall impose a term of supervised release of:

(A) Five years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

(B) Three years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

(3) If the court imposes a sentence of one year or less, the court shall impose a term of supervised release of:

(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is 25 years or more; or

(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is more than one year, but less than 25 years.

(4) In the case of a person sentenced for an offense for which registration is required by the Chapter 40 of Title 22, the court may, in its discretion, impose a longer term of supervised release than that required or authorized by paragraph (2) or (3) of this subsection, of:

(A) Not more than 10 years; or

(B) Not more than life if the person is required to register for life.

(5) The term of supervised release commences on the day the offender is released from imprisonment, and runs concurrently with any federal, state, or local term of probation, parole, or supervised release for another offense to which the offender is subject or becomes subject during the term of supervised release. A term of supervised release does not run during any period in which the offender is imprisoned in connection with a conviction for a federal, state, or local crime unless the period of imprisonment is less than 30 days.

(6) Offenders on supervised release shall be subject to the authority of the United States Parole Commission until completion of the term of supervised release. The Parole

Commission shall have and exercise the same authority as is vested in the United States District Courts by 18 U.S.C. § 3583(d)-(i), except that:

(A) The procedures followed by the Parole Commission in exercising such authority shall be those set forth in chapter 311 [repealed] of title 18 of the United States Code; and

(B) An extension of a term of supervised release under 18 U.S.C. § 3583(e)(2) may be ordered only by the court upon motion from the Parole Commission.

(7) An offender whose term of supervised release is revoked may be imprisoned for a period of:

(A) Not more than 5 years, if the maximum term of imprisonment authorized for the offense is life or the offense is specifically designated as a Class A felony;

(B) Not more than 3 years, if the maximum term of imprisonment authorized for the offense is 25 years or more, but less than life and the offense is not specifically designated as a Class A felony;

(C) Not more than 2 years, if the maximum term of imprisonment authorized for the offense is 5 years or more, but less than 25 years; or

(D) Not more than 1 year, if the maximum term of imprisonment authorized for the offense is less than 5 years.

(b-1) If the maximum term of imprisonment authorized for an offense is a term of years, the term of imprisonment or commitment imposed by the court shall not exceed the maximum term of imprisonment authorized for the offense less the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) of this section. If the maximum term of imprisonment authorized for the offense is up to life or if an offense is specifically designated as a Class A felony, the maximum term of imprisonment authorized upon revocation of supervised release pursuant to subsection (b)(7) shall not be deducted from the maximum term of imprisonment or commitment authorized for such offense.

(b-2)(1) The court may impose a sentence in excess of 60 years for first degree murder or first degree murder while armed, 40 years for second degree murder or second degree murder while armed, or 30 years for armed carjacking, first degree sexual abuse, first degree sexual abuse while armed, first degree child sexual abuse or first degree child sexual abuse while armed, only if:

(A) Thirty-days prior to trial or the entry of a plea of guilty, the prosecutor files an indictment or information with the clerk of the court and a copy of such indictment or information is served on the person or counsel for the person, stating in writing one or more aggravating circumstances to be relied upon; and

(B) One or more aggravating circumstances exist beyond a reasonable doubt.

(2) Aggravating circumstances for first degree murder are set forth in § 22-2104.01. Aggravating circumstances for first degree sexual abuse and first degree child sexual abuse are set forth in § 22-3020. In addition, for all offenses, aggravating circumstances include:

(A) The offense was committed because of the victim's race, color, religion, national origin, sexual orientation, or gender identity or expression (as defined in § 2-1401.02(12A));

(B) The offense was committed because the victim was or had been a witness in any criminal investigation or judicial proceeding or was capable of providing or had provided assistance in any criminal investigation or judicial proceeding;

(C) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(D) The offense was especially heinous, atrocious, or cruel;

(E) The offense involved a drive-by or random shooting;

(F) The offense was committed after substantial planning;

(G) The victim was less than 12 years old or more than 60 years old or vulnerable because of mental or physical infirmity; or

(H) Except where death or serious bodily injury is an element of the offense, the victim sustained serious bodily injury as a result of the offense.

(3) This section does not limit the imposition of a maximum sentence of up to life imprisonment without possibility of release authorized by § 22-1804a; § 22-2104.01; § 22-2106; and § 22-3020.

(c)(1) Except as provided under paragraph (2) of this subsection, a sentence under this section of imprisonment, or of commitment pursuant to § 24-903, shall be for a definite term, which shall not exceed the maximum term allowed by law or be less than any minimum term required by law.

(2) Notwithstanding any other provision of law, if the person committed the offense for which he or she is being sentenced under this section while under 18 years of age:

(A) The court may issue a sentence less than the minimum term otherwise required by law; and

(B) The court shall not impose a sentence of life imprisonment without the possibility of parole or release.

(c-1) A person sentenced under this section to imprisonment, or to commitment pursuant to § 24-903, shall serve the term of imprisonment or commitment specified in the sentence, less any time credited toward service of the sentence under subsection (d) of this section and subject to § 24-403.03, if applicable.

(d) Notwithstanding any other law, a ~~A~~-person sentenced to imprisonment, or to commitment pursuant to § 24-903, under this section for any offense may receive good time credit toward service of the sentence only as provided in 18 U.S.C. § 3624(b).

(d-1)(1) A person sentenced to imprisonment under this section for a nonviolent offense may receive up to a one-year reduction in the term the person must otherwise serve if the person successfully completes a substance abuse treatment program in accordance with 18 U.S.C. § 3621(e)(2).

(2) For the purposes of this subsection, the term "nonviolent offense" means any crime other than those included within the definition of "crime of violence" in § 23-1331(4).

(e) The sentence imposed under this section on a person who was over 18 years of age at the time of the offense and was convicted of assault with intent to commit first or second degree sexual abuse or child sexual abuse in violation of § 22-401, or of armed robbery in violation of § 22-4502, shall be not less than 2 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence as defined in § 22-4501, providing

for the control of dangerous weapons in the District of Columbia. The sentence imposed under this section on a person who was over 18 years of age at the time of the offense and was convicted of first or second degree sexual abuse or child sexual abuse in violation of § 22-3002, § 22-3003, or § 22-3008 through § 22-3010, shall not be less than 7 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence, as so defined.

(f) The sentence imposed under this section shall not be less than 1 year for a person who was over 18 years of age at the time of the offense and was convicted of:

(1) Assault with a dangerous weapon on a police officer in violation of § 22-405, occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction;

(2) Illegal possession of a pistol [now "firearm"] in violation of § 22-4503, occurring after the person has been convicted of violating that section; or

(3) Possession of the implements of a crime in violation of § 22-2501, occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction.

(g) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

D.C. Official Code § 24-403.03. Modification of an imposed term of imprisonment for violations of law committed before 18 years of age.

(a) Notwithstanding any other provision of law, the court ~~may~~ shall reduce a term of imprisonment imposed upon a defendant for an offense committed before the defendant's 18th birthday if:

(1)(A) The defendant was sentenced pursuant to § 24-403 or § 24-403.01 or was committed pursuant to § 24-903, and has served at least 20 15 years in prison ~~and not yet become eligible under § 24-404 for release on parole from the sentence imposed; or and~~

~~(B) The defendant was sentenced pursuant to § 24-403.01 or was committed pursuant to § 24-903, and has served at least 20 years in prison; and~~

(2) The court finds, after considering the factors set forth in subsection (c) of this section, that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

(b)(1) A defendant convicted as an adult of an offense committed before his or her 18th birthday may file an application for a sentence modification under this section. The application shall be in the form of a motion to reduce the sentence. The application may include affidavits or other written material. The application shall be filed with the sentencing court and a copy shall be served on the United States Attorney.

(2) The court may direct the parties to expand the record by submitting additional testimony, examinations, or written materials related to the motion. The court shall hold a hearing on the motion at which the defendant and the defendant's counsel shall be given an opportunity to speak on the defendant's behalf. The court may permit the parties to introduce evidence.

(3)(A) The defendant shall be present at any hearing conducted under this section unless the defendant waives the right to be present. Any proceeding under this section may occur

by video teleconferencing and the requirement of a defendant's presence is satisfied by participation in the video teleconference.

(B) A defendant brought back to the District for any hearing conducted under this section shall be held in the Correctional Treatment Facility.

(4) The court shall issue an opinion in writing stating the reasons for granting or denying the application under this section, but the court may proceed to sentencing immediately after granting the application.

(c) The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a) of this section, shall consider:

- (1) The defendant's age at the time of the offense;
- (2) ~~The nature of the offense and the~~ history and characteristics of the defendant;
- (3) Whether the defendant has substantially complied with the rules of the institution to which he or she has been confined and whether the defendant has completed any educational, vocational, or other program, where available;
- (4) Any report or recommendation received from the United States Attorney;
- (5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;
- (6) Any statement, provided orally or in writing, provided pursuant to § 23-1904 or 18 U.S.C. § 3771 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;
- (7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;
- (8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;
- (9) The extent of the defendant's role in the offense and whether and to what extent an adult was involved in the offense;
- (10) The diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to ~~a lifetime in prison~~ lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime; and
- (11) Any other information the court deems relevant to its decision.

(d) If the court denies or grants only in part the defendant's 1st application under this section, a court shall entertain a 2nd application under this section no sooner than 5 3 years after the date that the order on the initial application becomes final. If a sentence has not been reduced or granted in full after a 2nd application, a court shall entertain a 3rd and final application under this section no sooner than 5 3 years following the date that the order on the 2nd application becomes final. No court shall entertain a 4th or successive application under this section.

(e)(1) Any defendant whose sentence is reduced under this section shall be resentenced pursuant to § 24-403, § 24-403.01, or § 24-903, as applicable.

(2) Notwithstanding any other provision of law, when resentencing a defendant under this section, the court:

(A) May issue a sentence less than the minimum term otherwise required by law; and

(B) Shall not impose a sentence of life imprisonment without the possibility of parole or release.

Section 17

D.C. Official Code § 50–2201.02. Definitions

For the purposes of this chapter, the term:

(1) “Alcohol” means a liquid, gas, or solid, containing ethanol from whatever source or by whatever processes produced, whether or not intended for human consumption.

(2) “All-terrain vehicle” or “ATV” means any motor vehicle ~~with not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed~~ with 3 or more tires that is designed primarily for off-road use and which has a seat or saddle designed to be straddled by the operator. The terms “all-terrain vehicle” and “ATV” shall not include golf carts, riding lawnmowers, or tractors.

[...]

ATTACHMENT H

1 Committee Print
2 B22-0255
3 Committee on the Judiciary & Public Safety
4 November 28, 2018
5
6

7 A BILL
8

9
10 B22-0255
11

12
13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
14
15
16

17 To amend the Attorney General for the District of Columbia Clarification and Elected Term
18 Amendment Act of 2010 to authorize the Attorney General to issue grants, not to exceed
19 the total amount of \$360,000, for the purposes of crime reduction and violence interruption
20 and to use the Litigation Support Fund to pay any personnel and non-personnel costs
21 related to administering such a grant; to amend the Confirmation Act of 1978 to make
22 nominations to the Board of Ethics and Government Accountability, Corrections
23 Information Council, and District of Columbia Sentencing Commission subject to a 90-
24 day period of Council review, after which the nominations would be deemed disapproved;
25 to amend the Open Meetings Amendment Act of 2010 to require the retention of recordings
26 and minutes of meetings of a public body for a minimum of 5 years; to amend the Advisory
27 Commission on Sentencing Establishment Act of 1998 to make conforming changes; to
28 amend the Address Confidentiality Act of 2018 to clarify that a designee of the Director of
29 the Office of Victim Services and Justice Grants may be selected as an agent for the purpose
30 of service of process, require program participants to provide the Office of Tax and
31 Revenue with their actual addresses, and clarify how the Office of Tax and Revenue should
32 display program participants' actual addresses; to amend the Prevention of Child Abuse
33 and Neglect Act of 1977 to broaden the definitions of an abused child and a neglected child
34 to include a victim of sex trafficking or severe forms of trafficking of persons, a commercial
35 sex act, or sex trafficking of children; to amend An Act To provide for the mandatory
36 reporting by physicians and institutions in the District of Columbia of certain physical
37 abuse of children to make a conforming amendment; to amend the Access to Justice
38 Initiative Establishment Act of 2010 to make minor changes to loan repayment assistance
39 program applicants' and participants' eligibility; to amend the Fire and Police Medical
40 Leave and Limited Duty Amendment Act of 2004 to make a technical change; to amend
41 the Legalization of Marijuana for Medical Treatment Initiative of 1999 to provide certain
42 medical marijuana cultivation center applicants with the ability to relocate to another
43 election ward; to amend section 13-338 of the District of Columbia Official Code to make
44 a conforming change; to amend section 16-1053 of the District of Columbia Official Code
45 to make technical changes; to amend section 16-2322 of the District of Columbia Code to
46 clarify that existing Family Court orders currently in force with respect to a child who is

47 adjudicated in need of supervision, but not delinquent, shall terminate immediately for any
48 child who is 18 years of age or older and, for any other child, when that child reaches 18
49 years of age; to amend the National Capital Revitalization and Self-Government
50 Improvement Act of 1997 to make conforming and technical changes; to amend An Act
51 To establish a Board of Indeterminate Sentence and Parole for the District of Columbia
52 and to determine its functions, and for other purposes, to allow individuals to earn good
53 time credits for any offense in accordance with federal law, and clarify provisions allowing
54 for sentence review for individuals who have served a certain number of years in prison
55 for crimes committed as juveniles; and to amend the District of Columbia Traffic Act, 1925
56 to clarify the definition of all-terrain vehicle or ATV.
57

58 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
59 act may be cited as the "Omnibus Public Safety and Justice Amendment Act of 2018".

60 Sec. 2. The Attorney General for the District of Columbia Clarification and Elected Term
61 Amendment Act of 2010, effective May 27, 2010 (D.C. Law 18-160; D.C. Official Code § 1-
62 301.81 *et seq.*), is amended as follows:

63 (a) Section 106b (D.C. Official Code § 1-301.86b) is amended by adding a new subsection
64 (c-1) to read as follows:

65 "(c-1) The Fund may be used to pay personnel and non-personnel costs related to
66 administering any grant issued pursuant to the authority provided in section 108c(a).".

67 (b) A new section 108c is added to read as follows:

68 "Sec. 108c. Authority to issue grants for crime reduction and violence interruption.

69 "(a) The Attorney General may issue grants not to exceed the total amount of \$360,000 for
70 the purposes of crime reduction and violence interruption.

71 "(b) Personnel and non-personnel costs related to administering any grants issued pursuant
72 to the authority provided in subsection (a) of this section may be paid from funds deposited into
73 the Litigation Support Fund established in section 106b.".

74 Sec. 3. Section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-
75 142; D.C. Official Code § 1-523.01), is amended as follows:

76 (a) Subsection (e) is amended as follows:

77 (1) Paragraph (31) is amended by striking the phrase “; provided, that a nomination
78 to the Board of Ethics and Government Accountability shall be submitted to the Council for a 45-
79 day period of review, pursuant to section 203(b)(1) of the Board of Ethics and Government
80 Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011,
81 effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.03(b)(1));” and inserting
82 a semicolon in its place.

83 (2) Paragraph (34) is amended by striking the phrase “; and” and inserting a
84 semicolon in its place.

85 (3) Paragraph (35) is amended by striking the period and inserting a semicolon in
86 its place.

87 (4) New paragraphs (36) and (37) are added to read as follows:

88 “(36) The Corrections Information Council, established by section 11201a of the
89 National Capital Revitalization and Self-Government Improvement Act of 1997, effective October
90 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-101.01); and

91 “(37) The District of Columbia Sentencing Commission, established by section 2(a)
92 of the Advisory Commission on Sentencing Establishment Act of 1998, effective October 16, 1998
93 (D.C. Law 12-167; D.C. Official Code § 3-101(a)).”.

94 (b) Subsection (f) is amended as follows:

95 (1) Paragraph (52) is amended by striking the phrase “Boys established” and
96 inserting the phrase “Boys, established” in its place.

97 (2) Paragraph (53) is amended by striking the phrase “Health Equity.” and inserting
98 the phrase “Health Equity, established by section 5043 of the Commission on Health Equity

Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-160; D.C. Official Code § 7-756.01);” in its place.

(3) Paragraph (54) is amended by striking the phrase “Youth apprenticeship” and inserting the phrase “Youth Apprenticeship” in its place.

(4) Paragraph (55) is amended by striking the phrase “Commission established” and inserting the phrase “Commission, established” in its place.

(5) Paragraph (56) is amended by striking the phrase “Outcomes established” and inserting the phrase “Outcomes, established” in its place.

(6) Paragraph (57) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(7) Paragraph (58) is amended as follows:

(A) Strike the phrase “Commission established” and inserting the phrase “Commission, established” in its place.

(B) Strike the period and insert a semicolon in its place.

(8) Paragraph (59) is amended by striking the period and inserting a semicolon in its place.

Sec. 4. Section 408(a) of the Open Meetings Amendment Act of 2010, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-578(a)), is amended to read as follows:

“(a) All meetings of public bodies, whether open or closed, shall be recorded by electronic means, and the recording shall be preserved for a minimum of 5 years; provided, that if a recording is not feasible, detailed minutes of the meeting shall be taken and preserved for a minimum of 5 years.”.

121 Sec. 5. Section 3 of the Advisory Commission on Sentencing Establishment Act of 1998,
122 effective October 16, 1998 (D.C. Law 12-167; D.C. Official Code § 3-102), is amended by adding
123 a new subsection (b-1) to read as follows:

124 “(b-1) The Mayor shall submit a nomination for membership pursuant to section 2(e) of
125 the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-
126 523.01(e)).”.

127 Sec. 6. The Address Confidentiality Act of 2018, effective July 3, 2018 (D.C. Law 22-118;
128 D.C. Official Code § 4-555.01 *et seq.*), is amended as follows:

129 (a) Section 103(d) (D.C. Official Code § 4-555.03(d)) is amended as follows:

130 (1) The lead-in language is amended by striking the phrase “by OVJSG” and
131 inserting the phrase “by OVSJG” in its place.

132 (2) Paragraph (6) is amended by striking the phrase “of OVSJG” and inserting the
133 phrase “of OVSJG, or the Director’s designee,” in its place.

134 (b) Section 105 (D.C. Official Code § 4-555.05) is amended as follows:

135 (1) Subsection (d) is amended to read as follows:

136 “(d)(1) Only a participant’s actual address shall be used on any document filed with the
137 Office of Tax and Revenue.

138 “(2) The Office of Tax and Revenue shall not index by a participant’s name in any
139 online database of the agency relating to:

140 “(A) Assessment and tax information; and

141 “(B) All recorded documents; provided, that a court order, a judgment, a
142 lien, or any document related to debt collection that is not a security interest instrument, may be
143 indexed by the participant’s name.

144 “(3) The participant’s name may be included in any notice or index published by
145 the Office of Tax and Revenue for the collection of debt, including taxes.

146 “(4) This subsection shall not require the Office of Tax and Revenue to redact or
147 otherwise erase a participant’s name or address in any document or electronic record in its online
148 database.

149 “(5) Except as provided in this subsection, the Office of Tax and Revenue shall not
150 disclose a participant’s actual address, unless OVSJG permits disclosure pursuant to the rules
151 issued under section 112.”.

152 (2) Subsection (f) is amended by adding a new paragraph (3) to read as follows:

153 “(3) This subsection shall not apply to the Office of Tax and Revenue.”.

154 (c) Section 108(a) (D.C. Official Code § 4-555.08(a)) is amended to read as follows:

155 “(a) Except as provided by this title, no person shall intentionally obtain from a District
156 agency, other than the Office of Tax and Revenue, or disclose a participant's actual address
157 knowing that the participant is participating in the Program, unless required by existing law or by
158 OVSJG pursuant to the rules issued under section 112.”.

159 Sec. 7. Section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective
160 September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02), is amended as follows:

161 (a) Paragraph (1) is amended to read as follows:

162 “(1)(A) “Abused”, when used in reference to a child, means:

163 “(i) Abused, as that term is defined in D.C. Official Code § 16-2301(23); or

164 “(ii) Sexual abuse, which shall include:

165 “(I) Sex trafficking or severe forms of trafficking in persons, as
166 those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of
167 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A));

168 “(II) A commercial sex act, as that term is defined in section 101(4)
169 of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23,
170 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)); or

171 “(III) Sex trafficking of children, as described in section 104 of the
172 Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010
173 (D.C. Law 18-239; D.C. Official Code § 22-1834).

174 “(B) Nothing in this paragraph shall be construed as preventing or intending to
175 prevent:

176 “(i) Sex trafficking, severe forms of trafficking in persons, a commercial
177 sex act, or sex trafficking of children from being considered a form of sexual abuse for purposes
178 of D.C. Official Code § 16-2301(32); or

179 “(ii) The Agency from offering or providing services under this act to
180 abused or neglected children, including where the child was not abused or neglected by a parent,
181 guardian, or custodian.”

182 (b) Paragraph (15A) is amended to read as follows:

183 “(15A) “Neglected child” means a child who is a:

184 “(A) Neglected child, as that term is defined in D.C. Official Code § 16-
185 2301(9);

“(B) Victim of sex trafficking or severe forms of trafficking in persons, as those terms are defined in section 103(10) and (9)(A) of the Trafficking Victims Protection Act of 2000, approved October 28, 2000 (114 Stat. 1469; 22 U.S.C. § 7102(10) and (9)(A));

“(C) Victim of a commercial sex act, as that term is defined in section 101(4) of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1831(4)); or

“(D) Victim of sex trafficking of children, as described in section 104 of the Prohibition Against Human Trafficking Amendment Act of 2010, effective October 23, 2010 (D.C. Law 18-239; D.C. Official Code § 22-1834).”.

Sec. 8. Section 2(a) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a)), is amended by striking the phrase “neglected child, as defined in D.C. Code, sec. 16-2301(9), shall” and inserting the phrase “neglected child, as defined in section 102(15A) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02(15A)), shall” in its place.

Sec. 9. The Access to Justice Initiative Establishment Act of 2010, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 4-1701.01 *et seq.*), is amended as follows:

(a) Section 101(2) (D.C. Official Code § 4-1701.01(2)) is repealed.

(b) Section 403(a)(4) (D.C. Official Code § 4-1704.03) is amended to read as follows:

“(4) Have a current salary (including bonuses and other wages) of less than \$90,000;”.

(c) Section 404(b)(4) (D.C. Official Code § 4-1704.04(b)(4)) is amended by striking the phrase “debt to adjusted gross income” and inserting the phrase “debt to income” in its place.

(d) Section 405 (D.C. Official Code § 4-1704.05) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase “employment and annual adjusted gross income” and inserting the phrase “employment, current salary (including bonuses and other wages), and other sources of income,” in its place.

(2) Subsection (d) is amended by striking the phrase “who provides adequate notice to the Administrator of voluntary withdrawal from eligible employment shall be forgiven for the loan through the date of the voluntary withdrawal from eligible employment” and inserting the phrase “who becomes ineligible to participate in the LRAP shall be forgiven for the loan through the date of the ineligibility” in its place.

Sec 10. Subtitle D of the Fire and Police Medical Leave and Limited Duty Amendment Act of 2004, effective May 1, 2013 (D.C. Law 19-311; D.C. Official Code § 5-651 *et seq.*), is amended as follows:

(a) Section 652(b) (D.C. Official Code § 5-652(b)) is amended as follows:

(1) The lead-in language is amended by striking the phrase “the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*)” and inserting the phrase “the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*)” in its place.

(2) Paragraph (2) is amended by striking the phrase “the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8))” and inserting the

phrase “the EMS employee’s injury, as defined by section 2301(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01(5))” in its place.

(b) Section 653(b) (D.C. Official Code § 653(b)) is amended as follows:

(1) The lead-in language is amended by striking the phrase “the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*)” and inserting the phrase “the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*)” in its place.

(2) Paragraph (3) is amended by striking the phrase “the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8))” and inserting the phrase “the EMS employee’s injury, as defined by section 2301(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01(5))” in its place.

(c) Section 654(b) is amended as follows

(1) The lead-in language is amended by striking the phrase “the District of Columbia Workers’ Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501 *et seq.*)” and inserting the phrase “the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*)” in its place.

(2) Paragraph (3) is amended by striking the phrase “the EMS employee’s disability, as defined by section 2(8) of the District of Columbia Workers’ Compensation Act of

254 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1501(8))” and inserting the
255 phrase “the EMS employee’s injury, as defined by section 2301(e) of the District of Columbia
256 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-
257 139; D.C. Official Code § 1-623.01(5))” in its place.

258 Sec. 11. Section 7(d)(3) of the Legalization of Marijuana for Medical Treatment Initiative
259 of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.06(d)(3)), is
260 amended by adding a new subparagraph (C) to read as follows:

261 “(C) Any applicant that submitted an application on July 19, 2015, for a
262 registration to operate a cultivation center shall be allowed to modify the location of the cultivation
263 center on its application without negatively affecting the current status of the application.”.

264 Sec. 12. Section 13-338 of the District of Columbia Official Code is amended to read as
265 follows:

266 “An order for the substitution of publication for personal service may not be made until:

267 “(1) A summons for the defendant has been issued and returned “not to be found”;
268 and

269 “(2) The plaintiff proves by affidavit to the satisfaction of the court:

270 “(A) The nonresidence of the defendant or his or her absence for at least 6
271 months; or

272 “(B) Diligent efforts to find the defendant or that the defendant seeks to
273 avoid service of process by concealment.”.

274 Sec. 13. Section 16-1053 of the District of Columbia Official Code is amended as follows:

275 (a) Subsection (a) is amended as follows:

(1) Paragraph (3) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(2) Paragraph (6) is amended to read as follows:

"(6) Department of Behavioral Health;".

(b) Subsection (b)(2) is amended by striking the phrase "Unites States" and inserting the phrase "United States" in its place.

(c) Subsection (f) is amended by striking the phrase "a Chairman" and inserting the phrase "a Chairperson" in its place.

Sec. 14. Section 16-2322 of the District of Columbia Official Code is amended as follows:

(a) Subsection (a)(2) is amended by striking the phrase "his parent" and inserting the phrase "his or her parent" in place.

(b) Subsection (c) is amended by striking the phrase "Corporation Counsel" and inserting the phrase "Attorney General" in its place.

(c) Subsection (e) is amended by striking the word "his" both times it appears and inserting the phrase "his or her" in its place.

(d) Subsection (f) is amended as follows:

(1) The existing text is designated as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

"(2) Orders in force as of the effective date of the Omnibus Public Safety and Justice Amendment Act of 2018, as approved by the Committee on the Judiciary and Public Safety on November 28, 2018 (Committee print of Bill 22-255), with respect to a child who is adjudicated in need of supervision, but not delinquent, shall terminate immediately for any child who is 18 years of age or older and, for any other child, when that child reaches 18 years of age.".

299 Sec. 15. Section 11201a of the National Capital Revitalization and Self-Government
300 Improvement Act of 1997, effective October 2, 2010 (D.C. Law 18-233; D.C. Official Code § 24-
301 101.01), is amended as follows:

302 (a) The section heading is amended by striking the phrase “District of Columbia
303 Corrections” and inserting the word “Corrections” in its place.

304 (b) Subsection (a) is amended by striking the phrase “a District of Columbia” and inserting
305 the word “a” in its place.

306 (c) Subsection (b)(2)(A) is amended by striking the phrase “with the advice and consent of
307 the Council” and inserting the phrase “pursuant to section 2(e) of the Confirmation Act of 1978,
308 effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e))” in its place.

309 Sec. 16. An Act To establish a Board of Indeterminate Sentence and Parole for the District
310 of Columbia and to determine its functions, and for other purposes, approved July 15, 1932 (47
311 Stat. 697; D.C. Official Code § 24-403 *et seq.*), is amended as follows:

312 (a) Section 3a(d) (D.C. Official Code § 24-403.01(d)) is amended to read as follows:

313 “(d) Notwithstanding any other law, a person sentenced to imprisonment, or to
314 commitment pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, effective
315 December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903), under this section for any
316 offense may receive good time credit toward service of the sentence only as provided in 18 U.S.C.
317 § 3624(b).”.

318 (b) Section 3c (D.C. Official Code § 24-403.03) is amended as follows:

319 (1) Subsection (a) is amended as follows:

320 (A) The lead-in language is amended by striking the phrase “court may”
321 and inserting the phrase “court shall” in its place.

322 (B) Paragraph (1) is amended to read as follows:

323 “(1) The defendant was sentenced pursuant to section 3 or 3a or was committed
324 pursuant to section 4 of the Youth Rehabilitation Amendment Act of 1985, effective December 7,
325 1985 (D.C. Law 6-69; D.C. Official Code § 24-903), and has served at least 15 years in prison;
326 and”.

327 (2) Subsection (b) is amended as follows:

328 (A) Paragraph (2) is amended by striking the phrase “written materials” and
329 inserting the phrase “testimony, examinations, or written materials” in its place.

330 (B) Paragraph (3) is amended as follows:

331 (i) The existing text is designated as subparagraph (A).

332 (ii) A new subparagraph (B) is added to read as follows:

333 “(B) A defendant brought back to the District for any hearing conducted
334 under this section shall be held in the Correctional Treatment Facility.”.

335 (C) Paragraph (4) is amended by striking the phrase “section.” and inserting
336 the phrase “section, but the court may proceed to sentencing immediately after granting the
337 application.” in its place.

338 (3) Subsection (c) is amended as follows:

339 (A) Paragraph (2) is amended by striking the phrase “The nature of the
340 offense and the history” and inserting the phrase “The history” in its place.

341 (B) Paragraph (10) is amended by striking the phrase “a lifetime in prison”
342 and inserting the phrase “lengthy terms in prison, despite the brutality or cold-blooded nature of
343 any particular crime” in its place.

344 (4) Subsection (d) is amended to read as follows:

345 “(d) If the court denies or grants only in part the defendant's 1st application under this
346 section, a court shall entertain a 2nd application under this section no sooner than 3 years after the
347 date that the order on the initial application becomes final. If a sentence has not been reduced or
348 granted in full after a 2nd application, a court shall entertain a 3rd and final application under this
349 section no sooner than 3 years following the date that the order on the 2nd application becomes
350 final. No court shall entertain a 4th or successive application under this section.”.

351 (5) Subsection (e) is amended as follows:

352 (A) The existing text is designated as paragraph (1).

353 (B) A new paragraph (2) is added to read as follows:

354 “(2) Notwithstanding any other provision of law, when resentencing a defendant
355 under this section, the court:

356 “(A) May issue a sentence less than the minimum term otherwise required
357 by law; and

358 “(B) Shall not impose a sentence of life imprisonment without the
359 possibility of parole or release.”.

360 Sec. 17. Section 2(2) of the District of Columbia Traffic Act, 1925, approved March 3,
361 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.02(2)), is amended by striking the phrase “with
362 not less than 3 low-pressure tires, but not more than 6 low-pressure tires, designed” and inserting
363 the phrase “with 3 or more tires that is designed” in its place.

364 Sec. 18. Fiscal impact statement.

365 The Council adopts the fiscal impact statement provided in the committee report as the
366 fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975,
367 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

368 Sec. 19. Effective date.

369 This act shall take effect following approval by the Mayor (or in the event of veto by the
370 Mayor, action by the Council to override the veto), a 60-day period of congressional review as
371 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24,
372 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
373 Columbia Register.